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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1895.

No. 47. 186 29.

MARTIN B. HAYES; APPELLANT,

vs.

THE UNITED STATES.

APPEAL FROM THE COURT OF PRIVATE LAND CLAIMS.

FILED OCTOBER 31, 1894.

(15,720.)

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(15,720.)

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No. 477.

MARTIN B. HAYES, APPELLANT,

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1 UNITED STATES OF AMERICA, }
Territory of New Mexico. }

Be it remembered that heretefore, to wit, on the 24th day of September, A. D. 1892, Martin B. Hayes, by his attorney, John H. Knaebel, filed in the office of the clerk of the court of private lands claims of the United States in and for the Territory of New Mexico a petition, in which the said Martin B. Hayes is plaintiff and The United States of America is defendant; which petition is in the words and figures following, to wit:

2 To the Honorable Joseph R. Reed, chief justice of the United States court of private land claims:

The undersigned, Martin B. Hayes, a resident of the city of Denver, county of Arapahoe, and State of Colorado, by his petition complaining of The United States of America, defendant, shows unto the said court as follows—that is to say:

On the 3rd day of March, 1825, the Republic of Mexico, by the governor and departmental assembly of the Territory of New Mexico, acting upon the petition to that end of Antonio Chaves, a Mexican citizen, granted to him a certain tract of land theretofore part of the public domain of the said Republic; which tract of land is now wholly situated in the county of Socorro, in the present Territory of New Mexico, and is bounded and described as follows—that is to say:

A certain tract of land bounded on the north by a stright line including the point of the beginning of the small table-land of the Alamillo and extending from the river called the Rio Grande del Norte to and including the spring known as La Jara spring, on the east by the said river, on the south by a straight line running through a small forked cedar tree in the middle of the bend in the Pablo Garcia ranch, commonly so called, the said tree being on the same side with the highway going to Socorro, on the side of the meadow; the said south boundary line extending from the river due west until it intersects a line drawn due south from the said La Jara spring, and on the west by the said last-mentioned line, the area of land contained within the said tract being one hundred and thirty thousand one hundred and thirty-eight acres and ninety-eight one-hundredths of an acre, common measurement of the United States of America.

The said granted tract of land has been correctly surveyed by the said United States, under the direction of the surveyor general for New Mexico, and the field-notes and plat of such survey
 3 are part of the archives in the office of the said surveyor general at Santa Fé. A map of the said granted tract of land, showing its extent and boundaries, is herewith filed.

Juridical possession of all and singular the said tract of land was, on the 20th day of April, 1825, duly delivered to the said grantee, Antonio Chaves, pursuant to the terms of the said grant, by Juan Francisco Baca, constitutional alcalde of the jurisdiction of San

Miguel del Socorro, thereunto by the terms of the said grant commissioned by the said governor and departmental assembly, and the said juridical officer, with his attendant witnesses, Vicente Silba and Julian Ocaña, duly executed his act of juridical possession accordingly.

The said petition of Antonio Chaves was read and considered by the said governor and departmental assembly in the public session of the said assembly held at Santa Fé on the 16th day of February, 1825, and was on that day duly recorded in Book Two of the Journal of the said assembly, on the 41st page thereof, and on the said day, at the said session, the said assembly, by its order, made upon the said petition and recorded in the said book next after the said record of the said petition, referred the said petition to the said governor (or political chief) to ascertain whether the land so petitioned for pertained to the settlements of Socorro and Sevilleta, and whether it was embraced in the same, and also whether, although it pertained to the said settlements, it might, on account of their great extent, be granted to the petitioner without injury to a third party.

Pursuant to the said reference, the said governor or political chief, by his report to the said assembly, dated on the 25th day of February, 1825, rendered his opinion that no obstacle existed to the granting of the said petition, and that therefore the grant so requested should be made at once.

4 Thereupon the said governor and departmental assembly, in the public session of the said assembly held at Santa Fé on the 3rd day of March, 1825, after reading and considering the said report, which was then and there presented by the said governor, resolved to make and did make to the said Antonio Chaves a grant of the said tract of land, and ordered the said instrumental proceedings relating to the said grant to be kept as part of the archives in the office of the secretary of the said assembly, and the corresponding testimonio to be furnished to the said Antonio Chaves to serve him as his title, and directed the said grantee, Antonio Chaves, with such testimonio, to present himself before the said alcalde of Socorro in order to be placed in possession of the said granted tract of land; which proceedings of the said governor and departmental assembly appear of record in Book Two of the said Journal, on the 43rd page thereof.

Pursuant to the terms of the said grant, Juan Bautista Vigil, the secretary of the said departmental assembly, did, on the fifth day of March, 1825, furnish the said Antonio Chaves with a testimonio of his said granted title, consisting of a copy, by the said secretary duly certified, of the said petition of Antonio Chaves, the said report of the said governor or political chief, and the said grant and recorded proceedings, and thereafter, on the 20th day of April, 1825, the said Antonio Chaves presented himself, with the said testimonio, before the said alcalde, commissioned juridical officer as aforesaid, and duly received from him due livery of seisin and possession of the said granted tract of land.

Copies, in English and Spanish, of the said testimonio, embracing copies of all the above-described original documents and records,

5 are filed with and as part of this petition, and to the said copies your petitioner refers for a more particular statement of the contents and terms of the said several documents and records.

Neither the said petition of the said Antonio Chaves nor the said report of the said governor, nor the said grant, nor the said act of juridical possession nor the said testimonio, nor any original document or documents, record or records, whatever constituting or creating the said grant is or are in the possession or under the control of your petitioner, but all of the same are in the possession of the defendant, kept in its said archives at Santa Fé.

Immediately upon the livery of seisin and possession of the said granted tract of land to the said Antonio Chaves, as aforesaid, he held and claimed and thereafter, until his death, always held and claimed the same as his private property, in fee-simple absolute, free from all conditions or charges, actually residing upon, cultivating and improving the same, and occupying the same openly, continually, notoriously, peaceably, and exclusively; and dying actually seised and possessed thereof and leaving no issue him surviving, his widow, Monica Pino de Chaves, his only heir and assign, having become his only legal representative and successor in title and estate, by operation of law as well as by contract, immediately thereupon entered into the same tract of land, claiming to own the same in fee-simple absolute, and continued the seisin and possession thereof in privity with her said deceased husband, and thereafter she actually resided upon, cultivated and improved the same, and occupied the same under the said claim openly, continually, notoriously, peaceably, and exclusively, until the 26th day of October, 1850, when she duly conveyed all and singular the said tract of land, upon a pecuniary consideration, to Rafael Luna, Anastacio García, and Ramon Luna, in fee-simple absolute, by her written conveyance, bearing date on that day and by her duly signed, 6 executed, and delivered, and upon such transfer she delivered seisen and possession of all and singular the said tract of land to the said three purchasers.

Thereupon the said purchasers continued the same seisin and possession of the said tract of land in privity with their said predecessors in title, and cultivated, improved, and occupied the same and claimed the same in fee-simple absolute, openly, continually, notoriously, peaceably, and exclusively, until the death of the said Rafael Luna and Ramon Luna respectively, and thereafter the heirs of the said Rafael Luna and Ramon Luna, together with the said Anastacio García, continued the same seisin and possession, and cultivated, improved, occupied, and claimed the said tract of land until they sold and conveyed the same, by divers deeds and instruments of conveyance by them duly executed and delivered, upon pecuniary considerations, to Laura A. Bond, Charles D. Arms, and Latham L. Higgins; whereupon, seisin and possession thereof having by the said heirs and the said Anastacio García been duly delivered to the purchasers last named, they continued the same seisin and possession, and improved, occupied, and claimed the said tract of

land until they sold and conveyed the same by a certain deed of conveyance by them duly executed and delivered; upon a certain pecuniary consideration, to your petitioner; whereupon seisin and possession thereof having by the said last-named vendors been delivered to your petitioner, he continued and he has always since continued the same seisin and possession, and he is now the actual occupant and owner of all and singular the said tract of land.

No person or persons is or are in possession of the said tract of land or any part thereof or claims or claim the same or any part thereof, to the knowledge, information, or belief of your petitioner, otherwise than by his lease or permission, and there is not, to his knowledge, information, or belief, any claimant of the said lands or any part thereof adverse to your petitioner.

Your petitioner claims that his title to the said tract of land and each and every part thereof is complete and perfect, and that the said grant was complete and perfect before and at the time of the cession of New Mexico to the United States of America.

His said claim has never been confirmed by Congress, nor has it been considered or acted upon by Congress or the authorities of the United States, save as hereinafter particularly stated—that is to say, upon the application of the said Ramon Luna and Anastacio Garcia, made to the United States surveyor general of New Mexico, namely, James K. Proudfit, the said surveyor general examined and considered the validity, extent, and other particulars of the said grant, and thereupon, by his favorable report, number 79, dated on the 5th day of January, 1874, he recommended Congress to confirm the said grant.

Upon such recommendation a bill for the confirmation of the said private land claim was introduced into the House of Representatives at the first session of the 47th Congress and referred to its Committee on Private Land Claims. That committee referred the said matter to the Secretary of the Interior for information and his opinion.

The Secretary, in his reply to the said committee, under date of May 15, 1882, stated that he had referred the said matter to the Commissioner of the General Land Office, whose favorable report he, the said Secretary, therewith returned to the said committee, and he added that the said Commissioner (Hon. N. C. McFarland) "entertains no doubt of the authority of the original title papers in the case or of the grant being a valid and legal one."

Thereupon the said committee reported back the said bill (H. R. 5691) with the recommendation that it pass as amended.

Your petitioner is informed and believes that a subsequent surveyor general (Hon. George W. Julian) made an *ex parte* adverse report to the Commissioner of the General Land Office (Mr. Sparks) upon the said private land claim, and the said Commissioner in some communication to Congress concurred in the said adverse report; but both the said adverse report and the said communication were made in a perfunctory and unjudicial spirit and without any lawful authority.

Your petitioner therefore prays that the validity of his said title and claim may be inquired into and decided by this honorable court, and that he may have all the relief in the premises which the said court is competent to afford and decree by virtue of the act of Congress under which it is organized.

MARTIN B. HAYES,
By JNO. H. KNAEBEL,
His Agent and Attorney.

JNO. H. KNAEBEL,
Attorney for Petitioner, Santa Fe, N. M.

(Endorsed :) No. 37, F. No. 1. Filed Sept. 24, 1892. Served Oct. 3, 1892.

9 And be it further remembered that on the same day, to wit, the 24th day of September, A. D. 1892, a paper was filed with the said petition and marked Plaintiff's Exhibit No. 1; which said Exhibit No. 1 is in the words and figures following, to wit:

10 PLAINTIFF'S EXHIBIT No. 1.

43rd Congress, }	House of Representatives.	{ Ex. Doc.
1st session. }		{ No. 149.

Land Grant to Antonio Chavez.

Letter from the Secretary of the Interior transmitting, in compliance with the act of July 22, 1854, the transcript of the land grant to Antonio Chavez, being private land claim reported as No. 79.

February 6, 1874.—Referred to the Committee on Private Land Claims.

February 21, 1874.—Ordered to be printed and recommitted.

DEPARTMENT OF THE INTERIOR,
WASHINGTON, D. C., *February 4, 1874.*

SIR: Pursuant to the eighth section of the act approved 22nd July, 1854 (10 Stat., 308), I have the honor to transmit herewith for the consideration of Congress transcript of the "land grant to Antonio Chavez, being private land claim reported as No. 79, for the Arroyo de San Lorenzo tract in Socorro county, New Mexico," and recommended for confirmation by the surveyor general of said Territory.

I am, sir, very respectfully your obedient servant,

C. DELANO, *Secretary.*

Hon. J. G. Blaine, Speaker of the House of Representatives.

Transcript of land grant to Antonio Chavez, being private land claim reported as No. 79, for the Arroyo de San Lorenzo tract, in the county of Socorro, New Mexico; date of grant, March 3, 1825; reported by the United States surveyor general January 5, 1874.

To the Hon. James R. Proudfit, surveyor general of the Territory of New Mexico:

11 Your petitioners, the assignees of the heirs of Antonio Chavez, deceased, most respectfully represent that in the year A. D. 1825 the governor and departmental assembly of the Territory to New Mexico made to said Antonio Chavez, then in full life, a grant of a certain tract of land lying and being situate in the present county of Socorro, in the Territory of New Mexico, and bounded on the north by the beginning or commencement of the mesita (little table-lands) of Alamillo, on the east by the Rio del Norte (Rio Grande) river, on the south by a small forked cedar tree in the middle of the bend of the ranch of Pablo Garcia, now deceased, and on the west by the spring of La Java, the juridical possession of which was given to the said Antonio Chavez on the 20th day of April, A. D. 1825; all of which will more fully and at length appear by reference to Book Second, page 41 and following thereof, of the proceedings of the said department assembly for said year, now on file, as your petitioners are informed, in the office of the said surveyor general, as also by a certain certified copy of the said record and proceedings made at the time thereof by the then secretary of New Mexico, and the act of said juridical possession and the translations thereof, filed herewith, marked respectively Exhibits A, B, C.

That said grant was made in accordance with the laws and customs then in force in the Territory of New Mexico; that the said grantee immediately entered into the possession thereof and up to the day of his death, which happened several years thereafter, continued in the peaceable, quiet, and uninterrupted possession thereof, living on, cultivating, and pasturing the same.

That after the death of the said Antonio Chavez, his wife and children continued peaceably, uninterruptedly, and quietly to possess, hold, cultivate, and pasture the same (except when interrupted by Indian hostilities) until about the year A. D. 1850, when they sold and disposed of the said tract of land to your petitioners, Anastacio Garcia, Ramon Luna, and one Rafael Luna, since deceased, but whose heirs are a portion of your petitioners.

That from the date of said last-mentioned sale your petitioners and said Rafael Luna to the day of his death continued to hold, possess, cultivate, pasture, and occupy the same, and still continue to do so; that the right of your petitioners and those under whom they claim their title as aforesaid to possess, occupy, and hold the said tract of land has at all times been respected and acknowledged by every one since the date of the said grant. A sketch map of the same is herewith filed, marked E, and made a part of this petition.

Owing to the irregular form of the said grant, your petitioners are unable to make any estimate that might approximate to the area thereof, they also not being acquainted with the measurements, distances, and subdivisions of land in the United States, there never having been any survey or measurement thereof made.

Your petitioners further state that they are all residents of the Territory of New Mexico. They therefore ask that the said grant of land (known as San Lorenzo) may be confirmed to them and the legal representatives and assigns of the said original grantee and his heirs.

RAMON LUNA,
ANASTACIO GARCIA,

*For Themselves and the Heirs of Rafael Luna
and all Others Interested in said Grant.*

EXHIBIT A.

Testimonio.

13 Secretario de la Exma. Disputacion del Territorio de Santa Fé, de Nuevo Mejico.

Sesion publica en los dias 16 de Febrero y 3 de Marzo de 1825.

Certifico yo, el infraescri to, secretariode la exmo. disputacion provincial del territorio de Santa Fé del Nuevo Mejico, que en libro 2º, donde constan extendidas las actas de los acuerdos de S. E., a las 41 foxas de en folio consta haberse dado cuenta á dicha honorable corporacion con una instancia, cuyo tenor copiado a la letra es del tenor siguiente :

“EXMO. SENOR :” D. Antonio Chavez, ciudadano republicano de los Estados Unidos Mejicanos, y becino del pueblo de Nuestra Señora de de Belem, comprehencion de esta provincia de Nuevo Mejico, en la mas bastante y debida forma que lugar haya en dr. ante V. E. pareseo y digo, que hallandome sumamente apremiado en la posesion demi propiedad y pertenencia, asi para el pasteo de mis bienes como para la extencion de la agricultura, y deseando alargarme á otrode mas adbitrio con los finas honestos deaumentar ambos dos ramos, ocurro al superior conocimienti de V. E. paraque siendo de su superior agardo tenga á bien addicarme y adjudicarme el terreno llamado el Arroyo de San Lorenzo, cuya demareacion y lindes son pa. el sur el rancho de Pablo Garcia ; para el norte la mesita de Alamillo ; pa. el este ó poniente el Ojo de la Jara ; y para el oeste ú oriente el rio conocido por del norte, y siendo el sitado terreno de mi solicitud, tan lobregio yriaso solitario y paramoso, creo vivamente de la superior prudencia de V. E., teniendo á la vista y llegando á la consideracion, no se le presentaria, obstaculo, para que benefique en mi su addicion, adjudicacion y aplicacion, pues á mas de que servirá con su cultivo y enlaboracion al beneficio y seguridad de los indebeduos, circumbecinos resultára en general á la provincia un grande alibio y descanso, en quanto que por este punto se les

estorbará y pribará a los enemigos de nuestra quietud y sosiego, las incursiones, asechansas y tentatibas, que frecuentemente im-
 14 baden é intentan, y se omitirá la extraccion, deteriora, asolacion y disminucion de los pocos intereses que han dejado para la subsistencia de los havitantes y familias de esta necesitada provincia, por tanto V. E. pido y suplica me concedo lo mismo que impetro, que en ello recibiré merced, gracia y justicia.

Juro no ser de malicia y en lo necesario &a.

ANTONIO-CHAVEZ.

Sesion del dia 16 Febrero de 1825.

Pase esta instancia al sor. gefe politico de este territorio, para que á continuacion informe si el terreno que solicita esta carte corresponde á el de los poblaciones del Socorro y Sevilleta, y si se halla comprendido asimismo, si aun cuando corresponde á estas poblaciones, por ser mucha su estencion, si le puede adjudicar al solicitante sin perjuicio de tercero.

ANTONIO ORTIZ, *Presidente.*

JOSÉ FRANCO. BACA.

JOSÉ FRANCISCO ORTIS.

PEDRO BAUTISTA PINO.

MATIAS ORTIS.

JUAN BAUTISTA VIGIL, *Secretario.*

EXMO. SOR.: La solicitud de D. Antonio Chabes, vecino de Belem, es positivo que comprende parte del terreno del Socorro y parte del que corresponde á Sebilleta; pere tambien es cierto que por lo basto deambos terrenos, y ser endonde dividen sus posesciones, lejos de serles perjudicial á ambas poblaciones, les resulta en beneficio por las razones que boy a exponer en seguida. La primera y mas principal es el aumento de la pobacion en terminos que proporciona recursos á las expresadas poblaciones del Socorro y Sebilleta, tanto pa. cubrir una parte de las entradas y salidas de los
 15 barbaros que aun de paz bienen á robar, como las que de guerra traten de ostilisar á las mismas poblaciones ó sus circumbecinos ó limitroses. La *segun* segunda, que á los indibiduos de las referidas nuevas poblaciones les quedan terrenos amplicimos para pasteos, labores, usos y cerbidumbres, sin que les haga la menor falta el que se le concedo á Chavez, como en otro tiempo no lo hizo á Belem, el que se dio al Sabinal, y aun á la misma Sevilleta, aunque hera de la pertenencia del primero. La tercera que concediendole al referido Chavez, la merced que solicita debe producir las emulaciones que *que* apetecen para que se puedan ocupar los interesantes baldios del Bosque del Apache y San Pascual, cuyos terrenos en una y otra banda ofrecen la mejor comodidad á los ganaderos y labradores, que aunque en el sentro de las demas poblaciones tengan tierras, estas por su antigüedad estan llenas de laugastas y causadas de un mismo cultibo. Quarta, que la solicitud de Antonio Chavez tiene mas de necesidad que de afecta ú abaricia respecto de que á este indibiduo le ha llebado la Nacion Nabajo la mayor parte de

sus bienes de campo y necessita poseer un terreno donde, á fuer de su ferocidad, restablecerse de la perdidas que ha recibido durante la guerra de la expresada tribu. Quinta, que no resultando perjuicio al maslebe al Socorro y Sebilleta en la donacion que solicita Chabez es muy verosimil que los vecinos de ellos tendran endonde por su notoria pobresa recibir ocupaciones que les facilite la subsistencia de que carecen á la par de sus conbecinos que se hallan sujetos á la misma casi deplorable suerte. Por todas estas razones y muchas mas que omito, por no molestar a V. E., soy de parecer que bien pueda desde luego accederse á la solicitud de Don Antonio Chabez en la que no pondran reparo los de las poblaciones referidas, á menos que uno ú otro indibiduo *discolo* enemigo de la filicidad de sus semejantes, las seduzca indebidamente con pretestos que nunca faltan para lo que no se quiere. Esto es lo que puedo informar a V. E. en cumplimiento de lo acordado, y segun los practicos conocimientos que me asistem en la materia. Dios gue. á V. E. muchos anos.

Santa Fé, 25 de Febrero de 1825.

BARTOLOMÉ BACA.

Sesion del dia 3 de Marz de 1825.

Libro 2º de las actas de la exma. diputacion territorial del Nuevo Mejico, á las 43 pajas de su folio, dice, se procedió á la lectura de dos informes que de solicitud de terrenos de Dn. Antonio Chabes y Don Pedro José Perea presentó en seguida el señor gefe político, de los cuales, enterando S. E. resolvió que se les adjudique á los dos indibiduos el terreno que solicitan archibandose en la secretaría de S. E. las expedientes originales, como esta prebenido, acordado y sistemado para iguales casos, dandose á los interesados el testimonio correspondiente, que les serbirá de titulo, con el cual se presentara el D. Antonio Chabez al alcalde del Socorro, para que lo ponga en posesion, y Dn. Pedro José Perea á Dn. Juan Esteban Pino para igual operacion.

Concuenda fiel y legalhnte. con el original, del cual para la debida constancia y por disposicion de la exma. diputacion territorial del Nuevo Mejico, he sacado la presente copia, y del que se les ha dado á los interesados el correspondiente testimonio que les serbirá de titulo.

Santa Fé, 5 de Marzo de 1825.

JUAN BAUTISTO VIGIL, *Srio.*

[RUBRIC.]

Derechos de todo lo practicado veinte pesos.

TERRITORIO DE N. M.,)
Condado del Socorro. }

17 Certifico yo el abajo firmado, escribano de la corte de pruebas de dicho condado, que por mi fué enregisterado el antedecedente documento en paginas 128, 129, 130, 131 del libro letra D, que en esta oficina de mi cargo hay con tal fin.

En testimonio de lo cual pongo mi mano y el sello de la corte de pruebas de dicho condado hoy 27 de Mayo, A. D. 1873.

[SELLO.]

SEVERA A. BACA, *Escribano*.

Derechos por registros en los tres documentos cinco pesos.

S. A. BACA.

EXHIBIT B.

D. Juan Franco. Baca, ciudadano y alcalde constitucional de la jurisdiccion de Sn. Migl. del Socorro, con la facultad que para ello me conferida pasé en veinte de Abril de mil ochocientos veinte y cinco años, a posesesionar al C. D. Antonio Chaves en terreno qe. solicita.

Y en cumplimte. a la orden qe. con fha. sinco de Marzo del mismo año me presentó dho. Chavs., vesino de la jurisdiccion de Sta. Maria de Belem, en la mersed que me presentade la escelentissima diputacion provincial deste territorio del N. Mco. con un informe del gefe politico que le acompaña á dha. mersed, que pasé á posecionar á Chavs. al terreno qe. solicita, á lo que debió pasar y pasé con dos regidores deste ayuntamto. y dos vecinos deste jurisdiccion, á quienes les yse ver la orden y mersed. Los primeros fueron D. Anselmo Tafoya, D. Marcos Baca y los segundos son los ciudadanos Don José Lionicio Silba y Don Agustin Trugio, y como tal alce. posecioné al ciudadano D. Anto. Chavs. en el sitado terreno qe. solicita, basiendo las funciones que me previenen las leyes, poniendole por mojoneras por el norte en donde parte la Mesita del Alamillo, por oriente el Rio del Norte, per el sur un sabinito orquetudo qe. está en la enmediation del rincon del rancho de Pablo Garcia, qe. 18 commune. yaman. Este sabinito está para el lado del camino real que se trancita al dh. Socorro, á la parte de la bega; pr. el poniente el ojo conocido de la Jara. Como dho. alcede. cumpliendo con lo mandado en virtud y forma de dro., agarré á dicho Chaves de la mano, le pacié por sus tierras, quien dió voces, clamó viva la nacion y ntra. independencia, vúba el Sr., cumpliendo con las cerremonias a custumbradas; dió voces, arancó llervas, tiro piedras y alabaron el nombre de Ds. y esta al lisencia dejé al ynteresado en quieta posesion y con la faculta qe. me conferida le autericé y firmé con dos testigos de asa. de lo que doy fee en dho. dia, mes y año.

JUAN FRANCO. BACA.

Asa.: VISENTE SILBA.

Asa.: JULIAN OCAÑA. (X)

TERRITORIO DE N. M., }
Condado de Socorro. }

Certifico yo el abajo firmado, escribano de la corte de pruebas de dicho condado, que el antecedente documento fué enregistrado por mi en paginas 131, 132, del libro letra D, que en esta oficina de mi cargo hay con tal fin.

En testimonio de lo cual pongo mi mano y el cello de la corte de pruebas de dicho condado, hoy 27 de Mayo, A. D. 1873.

[SELLO.]

SEVERO A. BACA, *Escribano*.

EXHIBIT A.

Testimonio.

Office of secretary of the most excellent provincial deputation of the Territory of Santa Fé, of New Mexico.

Public session of the 16th day of February and 3rd day of March, 1825.

19 I, the undersigned, secretary of the most excellent provincial deputation of the Territory of Santa Fé, of New Mexico, do certify that in Book Second, wherein appears recorded the journal of the proceedings of its excellency, on page 41 of the book, it appears there was report made to said honorable body upon a petition, the tenor whereof, copied letter for letter, is as follows:

MOST EXCELLENT SIR: I, Antonio Chavez, a republican citizen of the United Mexican States, and a resident of the town of our Lady of Belem, jurisdiction of this province of New Mexico, in the most ample and due legal form appear before your excellency and State, that finding myself very much crowded in the possession of my property and its appurtenances, as well in the pasturing of my stock as in the extension of agriculture, and desiring to remove to another place of greater capacity, with the honest purpose of enlarging both businesses, I apply to the superior wisdom of your excellency, to the end that, if such should be your high pleasure, you may deign to assign and adjudge me the tract called the San Lorenzo Arroyo, whose description and boundaries are: On the south the ranche of Pablo Garcia; on the north the little table-land of the Alamillo; on the east or west the Jara spring; and on the west or east the river known as the Del Norte; and the said land referred to in my petition being so uninviting, uncultivated, desolate and bleak, I earnestly believe, from your superior discernment, that your excellency, having in view and considering the matter, will have presented to you no obstacle to the granting, the adjudging, and the assigning of the same to me; for, besides its contributing by cultivation and improvement to the benefit and security of the surrounding individuals, there will result to the province in general a great assistance and relief, inasmuch as at this point will be frustrated and prevented the incursions, ambushes and assaults

20 of the enemies of our quietude and peace, who often invade and attack; and it will stop the exportation, deterioration, and decrease of the little live stock they have left for the subsistence of the inhabitants and families of this needy province; wherefore I ask and pray that your excellency grant me what I pray for, whereby I will receive favor, grace, and justice. I declare not to act with dissimulation, and as may be necessary, &c.

ANTONIO CHAVEZ.

Session of the 16th day of February, 1825.

This document will pass to the honorable the political chief of this Territory in order that, in continuation, he report whether the land that this party asks for pertains to that of the settlements of Socorro and Sevilleta, and whether it is embraced in the same, and also whether, though it pertain to the settlements, it may, on account of their great extent, be granted to the petitioner without injury to a third party.

ANTONIO ORTIZ, *President*.
 JOSÉ FRANCISCO BACA.
 JOSÉ FRANCISCO ORTIZ.
 PEDRO BAUTISTA PINO.
 MATIAS ORTIZ.

JUAN BAUTISTA VIGIL, *Secretary*.

MOST EXCELLENT SIR: It is certain that the application of Antonio Chavez, a resident of Belem, refers to a part of the tract of Socorro and a portion of that which belongs to Sebilleta, but it is also certain that on account of the great extent of both tracts and it being where their possessions separate, far from being injurious to those settlements, there results to them a benefit, for the reasons which I will proceed to state, as follows: The first and most important is the increase of the population to such a degree that it will afford means to the said settlements of Socorro and Sebilleta by guarding a portion of the entrances and exits of the savages, who, though at peace, come to rob as those at war endeavor to harass the same settlements or
 21 those surrounding or near them. The second, that to the residents of the said new settlements there remain most ample lands for pastures, fields, uses, and transits, so that the land which may be granted to Chavez will cause them not the least scarcity, as on another occasion that granted to Sabinal did not to Belem, or even to Sebilleta itself, though it was an appurtenance of the first. The third, that making to the said Chavez the grant he asks would produce the emulation desired, so that the desirable vacant lands of the Bosque del Apache and San Pascual may be settled, which lands upon the one and the other bank present the greatest advantages to stock-raisers and farmers, for, although they may have lands in the center of other settlements, these from their age are full of locusts and worn out by constant cultivation.

Fourth. That the petition of Antonio Chavez has in it more of necessity than of affectation or covetousness, inasmuch as from that individual the Navajo tribe has taken the greater part of his live stock, and he requires a tract from which, through its productiveness, to re-establish himself from the losses he has suffered during the war with the said tribe. Fifth, that the slightest damage not resulting to Socorro and Sebilleta from the grant which Chavez asks, it is very probable that the people there, for their poverty is well known, will have a place where they may get employment which may furnish them subsistence and which (like their neighbors, who are subject to the same almost deplorable condition), they lack.

For all these reasons and many others, which I omit in order not to trouble your excellency, I am of opinion that the petition of Antonio Chavez may be acceded to at once, to which the people of the settlements aforesaid will make no objection, unless some peevish person or other enemy of the welfare of his fellow-creatures should unjustly persuade them with pretexts, which never lack against that which is not wanted. This is what I can report to your excellency in compliance with what was resolved and in accordance with the practical knowledge I have in the matter. God preserve your excellency many years.

Santa Fé, 25th of February, 1825.

BARTOLOME BACA.

Session of the 3rd day of March, 1825.

Book Two of the Journal of the most excellent territorial deputation of New Mexico, on the 43rd page thereof, says the reading of two reports was proceeded with, which his excellency the political chief then presented upon the petitions of Antonio Chavez and Pedro José Perea for lands, and this honorable body, being advised thereof, resolved that there be adjudged to the two individuals the land they ask, filing in the office of the secretary of this honorable body the original expedients, as is provided, ordered, and customary in similar cases, and furnishing the parties interested the corresponding testimonio, which will serve them as title, and with which Antonio Chavez will present himself to the alcalde of Socorro that he may place him in possession, and Pedro José Perea to Juan Esteban Pino, Esquire, for the same action.

This agrees faithfully and legally with the original from which, as due testimony and by direction of the most excellent territorial deputation of New Mexico, I have taken the present copy, of which there has been furnished the parties interested the corresponding testimonio, which will serve them as title.

Santa Fé, March 5, 1825.

JUAN BAUTISTA VIGIL, *Secretary.*
(Vigil's rubric.)

Fees for all that has been done, twenty dollars.

23 TERRITORY OF NEW MEXICO, {
County of Socorro. }

I, the undersigned, clerk of the probate court of said county, do certify that the foregoing document was recorded by me on pages 128, 129, 130, 131 of Book Letter D, which is in this office under my charge for such purpose.

In testimony whereof I place my hand and the seal of the probate court of said county this 27th day of May, A. D. 1873.

[SEAL]

SEVERO A. BACA, *Clerk.*

Fees for recording the three documents, five dollars.

S. A. BACA.

EXHIBIT B.

I, Juan Francisco Baca, citizen and constitutional alcalde of the jurisdiction of San Miguel del Socorro, under the authority conferred upon me in the premises, proceeded on the twentieth of April, of the year one thousand eight hundred and twenty-five, to place in possession the citizen Anto. Chaves upon the land that he applies for; and in obedience to the order which, under date of the 5th of March of the said year, said Chaves, a resident of the district of Santa Maria de Belem, presented me, borne upon the grant he exhibited to me from the most excellent provincial deputation of this Territory of New Mexico, with a report of the political chief, which accompanies said grant, directing me to proceed to place Chaves in possession of the land he asks; in consideration whereof, I should proceed, and I did proceed, with two aldermen of this ayuntamiento, and two residents of this district, to whom I caused to be exhibited the order and the grant, the former being Anselmo Tafoya and Marcos Baca, and the latter being the citizens José Lioncio Silva and Augustin Trugillo, and as such alcalde did place the citizen Antonio Chaves in possession on the said land which he applies for, performing the ceremonies the laws require of me, assigning him for landmarks on the north, where the small tableland of the Alamillo begins; on the east, the del Norte river; on the south, a small forked cedar tree in the middle of the bend

24 of the Pablo Garcia ranch, commonly so called, this little cedar being on the same side with the main road which is traveled toward said Socorro, on the side of the meadow; on the west, the spring known as the Jara spring. As alcalde aforesaid, in pursuance of direction, and in virtue and in form of law, I took the said Chaves by the hand and led him over his land, and he, in observance of the customary ceremonies, shouted, "Long endure the nation and our independence, and long live the sovereign," and he shouted and plucked up herbs, cast stones, and they praised the name of God, and by authority I left the party interested in peaceable possession, and I, under the authority which is conferred on me, authenticated and signed this, with two witnesses in my attendance, to which I certify on said day, month, and year.

JUAN FRANCISCO BACA.

Attending:

VICENTE SILBA.

Attending:

JULIAN ORCAÑA. (X.)

TERRITORY OF NEW MEXICO, {
County of Socorro. }

I, the undersigned, clerk of the probate court of said county, do certify that the foregoing document was recorded by me on pages

131 and 132 of Book Letter D, which is in this office under my charge for such purpose.

In testimony whereof I set my hand and the seal of the probate court of said county the 27th day of May, A. D. 1873.

[SEAL.]

SEVERO A. BACA, *Clerk.*

EXHIBIT C.

In this county of Valencia, at the place Sabinal, in the Territory of New Mexico, on the twenty-sixth day of the month of October, in the year of our Lord 1850, before me, Ramon Luna, prefect of said county, and my attending witnesses, appeared, present, and in their proper person, Mrs. Monica Pino, widow of Antonio

25 Chavez y Aragon, deceased; Rafael Luna, Anastacio Garcillo, and Ramon Luna, all residents of this county under my jurisdiction, all of whom I recognize and certify to; and the party first aforementioned declared that she would convey, and actually did convey, to the three of the second part the present documents herewith accompanying unto them, the said Rafael Luna, Anastacio Garcillo, and Ramon Luna, the said sale which she has made to the three persons referred to being of the land which was granted to the above-mentioned deceased husband of the said vendor by the most excellent provincial deputation of the Territory of Santa Fé, of New Mexico, and she has made the same for the price and sum of five hundred dollars (\$500) in merchantable and current money, and if it is or may be worth more she makes unto them gift and donation of the excess, pure, full, and perfect, so termed in law. Said sale and delivery of document she has made to the vendees free of all claim and mortgage, so that the said vendees may, in virtue of their right and at their will, exchange, sell, or alienate the same to the person or persons they wish to, so that to prevent the same there shall be no one to interpose any incumbrance or raise any question, either through her or through any successor of hers, and if by accident or mischievousness it should so happen in the future she prays, requests, and charges the authority or authorities, of whatsoever class they be, that they entertain no claim whatever, but that there be carried into effect what is by her stipulated in this conveyance of document which she has made to the aforementioned vendees; as also covenants and binds herself with all the vigor of the law, if it be necessary, by due process, to prosecute the suit herself, and continue the same until the said vendees are left in quiet and peaceable possession of the land she has sold

and of the conveyance of document she has made to them ;
26 and that this conveyance of document and this sale of land which she has made may have all the force and validity necessary she requested me, the present prefect, to interpose my authority, and I interposed the same in exercise of the power conferred upon me as such, signing this, with those in my attendance and with the said Doña Monica, who, not knowing how to sign, made a sign of the cross with her own hand before me, clerk of the courts

at this place, Sabinal, upon this day, of the date above written; to all of which I certify.

RAMON LUNA, *Prefect.*
MONICA PINO. X.

ANTONIO FRANCISCO CHAVES, *Clerk.*

Attending:

JOSE MA. CHAVES Y PINO.

Attending:

YGNACIO CHAVES Y ARAGON.

TERRITORY OF NEW MEXICO, }
County of Socorro. }

I, the undersigned, clerk of the probate court of said county, do certify that the foregoing instrument was by me recorded on pages 132 and 133 of Book Letter D, which is in this my office for such purpose.

In testimony whereof I set my hand and the seal of the probate court of said county this 27th day of May, A. D. 1873.

[SEAL.]

SEVERO A. BACA,
Probate Court.

The foregoing is, to the best of my knowledge and belief, a correct translation of three documents in the Spanish language, marked respectively Exhibits A, B, and C.

JOHN P. RISQUE, *Translator.*

Sworn to and subscribed before me this 25th day of August, 1873.

JAMES K. PROUDFIT,
United States Surveyor General.

27

SURVEYOR GENERAL'S OFFICE,
TRANSLATOR'S DEPARTMENT,
SANTA FE, N. MEX., August 24th, 1873.

The foregoing translation of the original documents in the Spanish language on file in this office having been by me compared with said originals and found correct is hereby adopted as the official translations.

DAVID J. MILLER, *Translator.*

SANTA FE, N. MEX., September 26, 1873.

Received of Hon. James K. Proudfit, surveyor general, one paper, marked C, written in original Spanish, being a deed from Mrs. Monica Pino to Ramon Luna, Rafael Luna, and Anastacio Garcia, dated October 26, 1850, appearing as Exhibit C in the official translation in the surveyor general's office, in the case of private land

claim in the name of Antonio Chavez for "San Lorenzo" or Alamillo tract of land in Socorro county, New Mexico.

RAMON LUNA,
ANASTACIO GARCIA,
*For Themselves and All the Heirs of Rafael Luna
and All Others Interested in said Grant,*
By MARTIN B. HAYES,
Their Agent.

Testimony.

Testimony of Juan Francisco Baca, taken before Joseph C. Hill, United States commissioner, in regard to the ranch or sitio of Alamillo or arroyo of San Lorenzo.

My name is Juan Francisco Baca. I live in Limitar, in the county of Socorro, and I was eighty-five years of age in August, 1873. I know the sitio of Alamillo or arroyo of San Lorenzo. I have known it since the year 1815 or 1816. It was granted to Antonio Chaves, commonly known as Antonico Chaves. I was 28 at that time alcalde constitutional. The departmental deputation sent me an order to place the said Antonio Chaves in possession of the said sitio. This was about the year 1822. I am not very certain as to the exact date. The sitio is bounded on the north by the mesita del Alamillo, where it leaves the river, on the east by the Rio del Norte, on the south by the ranch of Pablo Garcia, the line running toward a forked cedar tree about a mile and a half from the river. I do not remember the western boundary. I placed Antonio Chaves in possession in due form of law. He took possession and kept continuous possession of the same until his death. His heirs sold the sitio to Ramon Luna, Rafael Luna, and Anastacio Garcia. They have continuously occupied the said sitio up to the present time. I am not interested in the said sitio or tract of land in any manner whatsoever.

JUAN FRANCISCO BACA. ^{his} (RUBRIC.)
mark.

Witness:

J. FRAN'CO CHAVES.

I, Joseph C. Hill, a United States commissioner for the Territory of New Mexico, do certify that the foregoing evidence was duly taken by me, first having caused the said Juan Francisco Baca to come before me, who, first having duly sworn to speak the truth, the whole truth, and nothing but the truth, that thereupon he testified in the words set forth in the foregoing testimony signed by him; that said testimony was taken by me at Limitar, in the county of Socorro, on the first day of November, in accordance with the request and direction of the surveyor general of the Territory of New Mexico sent to me to that effect.

J. C. HILL,
United States Commissioner.

Antonio Chaves (San Lorenzo) Grant.

Opinion.

This grant is brought before me under the act of Congress of July 22, 1852, establishing this office, and the eighth article of the treaty of Guadalupe Hidalgo.

It appears from the record the departmental assembly of New Mexico granted the land in question to Antonio Chaves in the year 1825; that he was legally placed in possession on the 20th day of April, 1825, by the proper alcalde, and that the said Chaves and his legal representatives have remained ever since in undisputed occupancy and ownership, except when disturbed by savage Indians.

I respectfully recommend to Congress that the title to the land, according to boundaries set forth in the act of possession, be confirmed to the legal representatives of Antonio Chaves, deceased, the original grantee.

I transmit complete copies of the record in triplicate.

JAMES K. PROUDFIT,
United States Surveyor General.

Surveyor general's office, Santa Fé, N. Mex., January 5, 1874.

SURVEYOR GENERAL'S OFFICE,
SANTA FÉ, N. MEX., *January 24, 1874.*

The foregoing is a correct transcript of the papers on file in this office in private land claim reported as No. 79, in the name of Antonio Chaves, for land known as the Arroyo de San Lorenzo tract.

[L. S.]

JAMES K. PROUDFIT,
United States Surveyor General.

U. S. SURVEYOR GENERAL'S OFFICE,
SANTA FÉ, N. M., *August 27th, 1883.*

30 I hereby certify that the foregoing twelve pages of printed matter (except the letter of the Secretary of the Interior) is a correct copy of the record of the Antonio Chaves grant, reported No. 79, as appears from the original papers on file in this office.

Witness my hand and seal the day and year above written.

HENRY M. ATKINSON,
U. S. Sur. Gen'l.

(Endorsed :) No. 37, F. No. 2. Copy (certified) grant and muni-
cements of title, &c. Filed Sept. 24, 1892.

31 And be it further remembered that on the same day, to wit, the 24th day of September, A. D. 1892, a map was filed with the said petition and is marked Plaintiff's Exhibit No. 2, as follows, to wit:

(Here follows map marked page 32.)

No 444.
Hayes. } p. 32.
v.
U. States.

La Jolla Spring
2.7 miles

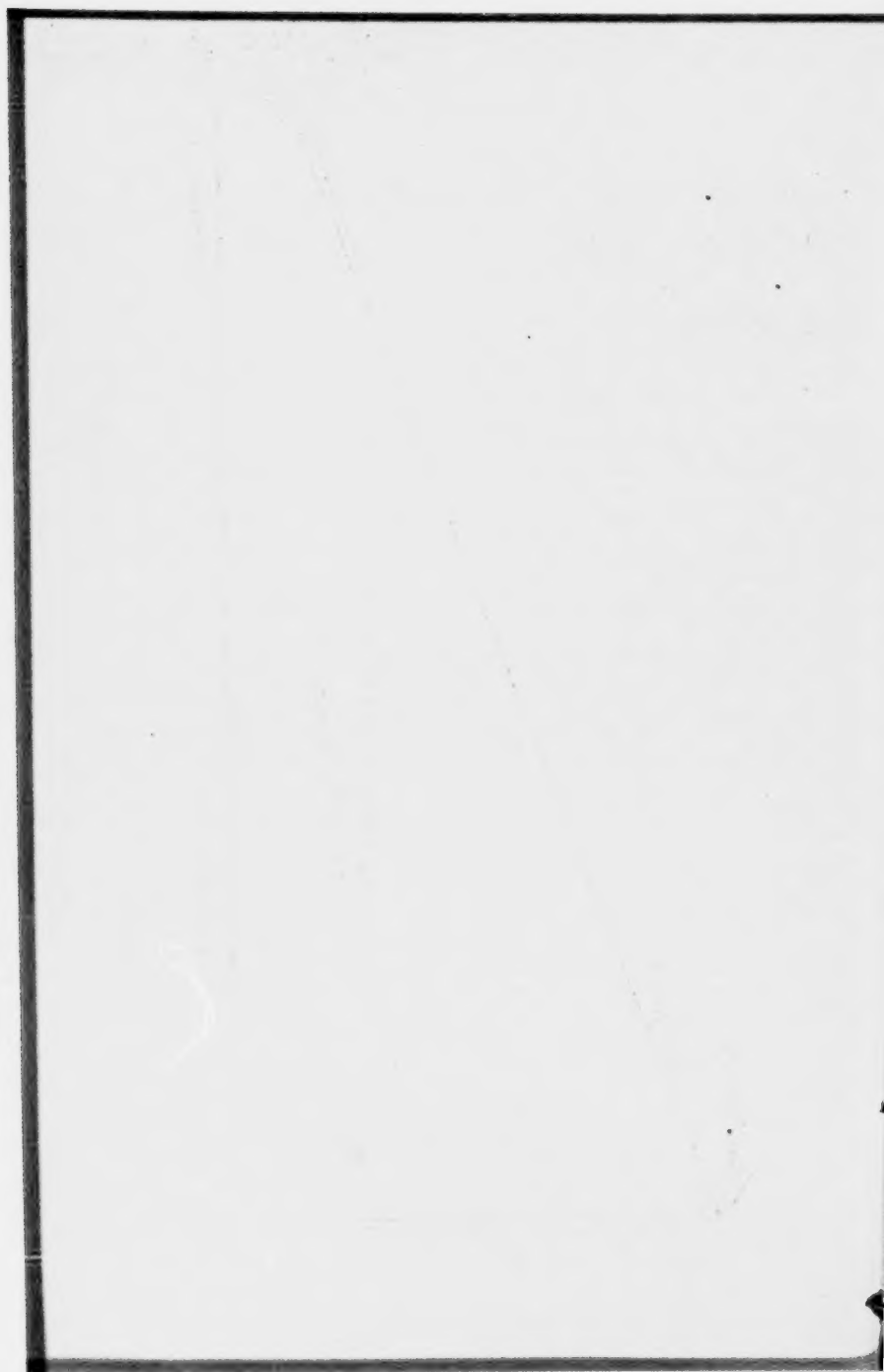
10 1/4 miles

ANTONIO CHEVEZ GRANT N. 79.
130.138 9 1/2 acres

Alameda Major

Timber near Tree

25 1/2 miles



33 And be it further remembered that on the same day, to wit, the 24th day of September, A. D. 1892, a summons was issued out of the said court, and was thereafter duly served on the defendant and return of such service duly made; which summons and proof of service and all endorsements are in the words and figures following, to wit:

34

Summons.

UNITED STATES OF AMERICA, }
District of New Mexico, } ss:

In the U. S. Court of Private Land Claims.

MARTIN B. HAYES, Plaintiff,
versus
 THE UNITED STATES OF AMERICA, }
 Defendant. } Petition Filed in the Clerk's
 Office this 24th Day of Sep-
 tember, A. D. 1892.

The President of the United States of America to Matt. G. Reynolds,
 U. S. att'y for the court of private land claims, Greeting:

You and each of you are hereby notified that an action has been brought in said court by Martin B. Hayes, plaintiff, against you, as defendant under the provisions of the act of the Congress of the United States entitled "An act to establish a court of private land claims, and to provide for the settlement of private land claims in certain States and Territories," approved March 3d, 1891, and that a copy of the petition of said plaintiff is herewith attached and served upon you, and that you are required to appear and plead, demur or answer, to the petition filed in said action in said court within thirty days from the date of service of this summons upon you; and if you fail so to do the said plaintiff will take default according to the provisions of the aforesaid act.

Witness the Honorable Joseph R. Reed, chief justice of the court of private land claims, and the seal of the said court, at the city of Santa Fé, in said district, this 24th day of September, A. D. 1892, and of the Independence of the United States the 116th year.

[SEAL.]

JAMES H. REEDER, *Clerk*,
 By IRENEO L. CHAVES,
Deputy Clerk.

35 [Endorsed:] Gen. No., 37; file No., 4. U. S. court of private land claims, district of New Mexico. Martin B. Hayes, plaintiff, *versus* The United States of America, defendant. Summons. Filed this 11th day of October, A. D. 1892. James H. Reeder, clerk, by Ireneo L. Chaves, deputy clerk. Jno. H. Knaebel, of Santa Fé, attorney for plaintiff.

Proof of Service.

UNITED STATES OF AMERICA, }
District of New Mexico, } ss.:

SANTA FÉ, Oct. 10, A. D. 1892.

I hereby certify that I received the within writ on the 24 day of Sept., A. D. 1892, and that I have personally served the same upon the said defendant by delivering to Matt. G. Reynolds, U. S. att'y for the court of private land claims, and each of them, personally, a true copy of the within writ, at the time and place as follows: As to Matt. G. Reynolds, at Saint Louis, county of —, on the 3 day of Oct., A. D. 1892; as to —.

I hereby acknowledge service of the petition and exhibits filed in this cause. This 3rd day of October, 1892.

St. Louis, Mo.

MATT. G. REYNOLDS,
U. S. Attorney.

This writ therefore returned by me, as the law directs, this 10 day of October, A. D. 1892.

TRINIDAD ROMERO, *Marshal,*
 By SERAPIO ROMERO,
Deputy Marshal.

Marshal's Fees.

OCT. 3, '92.

Service, 1, defendants, at \$4..... \$4 00
 Mileage, — miles at 6c., going only.....

Total..... \$4 00

Paid by — —.

36 And be it further remembered that afterwards, to wit, on the ninth day of March, A. D. 1893, an answer was filed in the said cause in the office of the said clerk; which answer is in the words and figures following, to wit:

37 UNITED STATES OF AMERICA, ss.:

In the Court of Private Land Claims, Santa Fé District, March Term, A. D. 1893.

MARTIN B. HAYS, Plaintiff, }
vs.
 THE UNITED STATES, Defendant. }

Answer.

Comes now the United States, by its attorney, Matt. G. Reynolds, and for answer to the petition filed herein says:

It has no knowledge or information sufficient to enable it to form

a belief as to whether on the 3rd of March, 1825, the governor and the departmental assembly of the Territory of New Mexico undertook to grant to one Antonio Chaves a large tract of land situate in the now county of Socorro, but says, if they did so undertake to do it was without any warrant or authority of law and in violation of the laws in existence and contrary to the policy as declared by the Mexican Republic.

It denies that the present location and claim of the boundaries of said alleged attempted grant are correct, and

38 It denies that the quantity claimed was ever attempted to be granted, either by the governor or the territorial deputation, or both, and that if they did so attempt to grant said land as claimed, as to boundaries and quantity, said attempt was in direct violation of the express provisions of the laws of the Mexican Republic for the disposition of the public domain within the Territory of New Mexico and therefore absolutely null and void.

It denies that the survey made or attempted to be made of said grant by a deputy surveyor under the directions of the surveyor general of the territory of New Mexico is correct.

It denies that the juridical possession was or could have been given to said tract of land on the 20th of April, 1825, for the reason that it appears that the eastern portion of the grant, as alleged by plaintiff, was then asserted to have been prior thereto disposed of by the Mexican nation under what is commonly known and designated as the Socorro grant and the La Joya or Cevilleta grant.

It denies that the territorial deputation had any authority to issue title or make a grant.

It denies that the same had authority to receive the report of the governor and make the same the basis of its action.

It says whatever proceedings may have been had in relation to the same by the territorial deputation and the governor were irregular and unknown to any law existing prior, at the time, or subsequent thereto.

Further answering, it says it informs, believes, and so charges the fact to be, that a large portion of this grant is claimed—

39 by what right or title it has no information—by the alleged claimants and owners of the Socorro grant and the alleged claimants and owners of the La Joya or Cevilleta grant. It therefore pleads a defect of parties defendant, the same having an interest in defeating the confirmation of this grant alleged.

It denies that said alleged original grantee, Antonio Chaves, or any one for him, ever took possession or held, cultivated, grazed, or occupied the land claimed by the plaintiff.

It denies that the same had been continuously occupied from 1825 down to the present time by Antonio Chaves and those claiming under him.

It says it has no knowledge or information sufficient to enable it to form a belief as to whether or not this plaintiff by proper distraignment of title holds or owns the whole or any part of the said alleged interest of said Antonio Chaves.

Further answering, it says that at no time was the present extent,

as claimed in this grant, known or designated as the Arroyo San Lorenzo, and says the Arroyo San Lorenzo tract was a small tract lying on the eastern edge of this alleged grant and forming the boundary line between what is alleged to be the Socorro grant and the La Joya or Cevilleta grant, and its western extension never did, then or now, extend twenty-seven miles from the Rio Grande west, nor did it extend then or now, on its western side, twelve miles from north to south, nor was it so charged or claimed in 1825, at the time said attempted grant is alleged to have been made.

Further answer-, it says that said grant as claimed is not one which under the laws of nations, the treaty between the Republic of Mexico and the United States, or the applications of the principles of equitable jurisprudence — entitled to confirmation by this court.

It denies that the conditions imposed, *os* cultivation and inhabitation, were ever complied with.

All other allegations not hereinbefore answered are denied, and it is demanded that plaintiff be put to his proof of all the allegations in his petition contained, as provided they shall be by the act approved March 3rd, 1891, under which this court assumes jurisdiction of this controversy, and that the plaintiff shall be put to his proof as to his pretended interest or supposed interest therein.

Now, having fully answered, it prays the court that a decree may be entered rejecting the confirmation of said alleged grant, and for such other and further orders as may seem meet and that this court may be authorized to make in the premises.

MATT. G. REYNOLDS,

U. S. Attorney.

And be it further remembered that afterwards, to wit, on the 14th day of March, A. D. 1893, the Atlantic and Pacific Railroad Company filed in the said office a paper in the words and figures following, to wit:

UNITED STATES OF AMERICA, *ss*:

In the Court of Private Land Claims, Sitting in the Territory of New Mexico, at the City of Santa Fé.

MARTIN B. HAYES	}	No. 37. Antonio Chaves Grant.
<i>vs.</i>		
THE UNITED STATES.		

Comes now the Atlantic and Pacific Railroad Company, upon leave first had and granted to intervene in the above-entitled cause, and for its answer shows—

That it is a corporation duly incorporated under an act of Congress approved July 27th, 1866.

That on or about the 12th day of March, 1872, it duly and legally filed with the Commissioner of the General Land Office of the

United States a map of definite location of its line of road, and thereafter, in the year 1881, it constructed its line of railroad through the counties of Bernalillo and Valencia, in the Territory of New Mexico.

That by the said act of Congress creating said corporation it was granted the odd-numbered sections of public land in the Territory of New Mexico within a distance of forty miles on each side of the line of railroad constructed by it, together with a strip of land 200 feet in width as and for its right of way, and also an indemnity strip of 10 miles adjoining said 40 miles, and that the land the title to which is sought to be confirmed by plaintiff in this action lies within said forty-miles limit.

That at the time of filing its map of definite location as aforesaid no proceedings were had anywhere or in any way preventing the rights granted to this defendant by said act of Congress from attaching to any of the real estate (to which they could attach under the terms of its said grant) described in plaintiff's petition.

That by virtue of the facts aforesaid said corporation became seized of the title to the odd-numbered sections embraced within the limits of the land described in said petition and which it is unable at this time more particularly to describe.

Wherefore this defendant prays that plaintiff's petition be dismissed as to all of the odd-numbered sections above-mentioned.

(Signed)

C. N. STERRY,

Attorney for Atlantic and Pacific Railroad Company.

And be it farther remembered that on the 13th day of December, A. D. 1892, the same being the 12th day of the November term, the following proceedings were had, to wit:

MARTIN B. HAYES, Plaintiff,	} No. 57.
<i>versus</i>	
THE UNITED STATES, Defendant.	

Come now the parties in the above-entitled cause, the plaintiffs appearing by *their* attorneys, John H. Knaebel, and the Government by Matt. G. Reynolds, Esq., United States attorney, and the said parties announcing themselves ready for trial; and the plaintiffs, being put to *their* proof as to the allegations in *their* petition, and to show cause why said grant should be confirmed unto *them*, introduced oral and documentary proof.

45	MARTIN B. HAYS, Plaintiff,	}
	<i>vs.</i>	
	THE UNITED STATES, Defendant.	

On the trial of this cause, to wit, on the 13th of December, 1892, the following testimony was taken, to wit:

ELLAS BREVOURT, being duly sworn, testified on behalf of plaintiff, in English, as follows:

Direct examination.

By Mr. KNAEBEL, counsel for pl'ff:

- Q. How long have you lived in the Territory of New Mexico?
A. Since 1850.
Q. Were you acquainted with Anastacio Garcia in his lifetime?
A. I was; I knew him first in 1858.
Q. Where was he then living?
A. He was living at the Alamillo.
Q. Do you know the Alamillo grant?
A. Yes, sir.
Q. Do you know whether he claimed that grant in 1858?
A. He was living on it.
Q. He is dead?
A. I understand he is dead.

Cross-examination.

46 By Mr. REYNOLDS, U. S. attorney:

- Q. When did you first know him?
A. I knew him in '58.
Q. Was he living there then?
A. Yes, sir.
Q. Was he living there when he died?
A. I don't know; I saw him subsequently, about '69 or '70.
Q. Was he living there then?
A. Yes, sir.

WILL. M. TIPTON, being first duly sworn, testified on behalf of plaintiff, in English, as follows:

Direct examination.

By Mr. KNAEBEL, attorney for plaintiff:

- Q. How long have you had personal experience and held official positions in the surveyor general's office for this Territory?
A. For about sixteen years prior to the first of last April.
Q. Please look at the book now shown you and state what it is.
A. It is book of the proceedings of the provincial deputation of New Mexico, beginning on the 17th day of the month of February, 1824, and concluding with the proceedings of that deputation on the 29th of January, 1828.
Q. What are the papers now shown you and marked file 158?
47 A. These are two papers on file in the office of the surveyor general in the matter of the private land claim known as the Antonio Chaves or Alamillo, for the San Lorenzo Arroyo grant. This first document, which is designated by the letter "A" in red

ink, purports to be a certified copy of certain proceedings in the provincial deputation in relation to the Antonio Chaves grant.

Q. Certified by whom?

A. By Juan Bautista Vigil.

Q. Are you acquainted with his signature as found in the archives?

A. Yes, sir.

Q. In your opinion, is that signature genuine?

A. Yes, sir; it is.

A. The second document is designated by letter "B," in red ink, and purports to be an act of possession of this same tract, signed by Juan Francisco Baca, constitutional alcalde of the jurisdiction of Socorro.

Q. Were those paper-a part of the evidence introduced before the surveyor general when this case was reported to the Congress of the United States?

A. I don't see that the surveyor general refers to these documents in his report of the case. I presume they are, but I don't know it to be a fact.

48 Q. They are part of the papers in the case now?

A. Yes, sir.

Q. How long have they been in the office?

A. There is no number on them to show when they were filed.

Mr. KNAEBEL: Offer translation. I tender in evidence the record of the proceedings of the departmental assembly, so far as it relates to the title in this case, especially the page 43 of the book and leaf forty-one of the book.

(This evidence is all stated in words and figures in the foregoing Exhibit No. 11.)

No cross-examination.

MARTIN B. HAYS, the plaintiff, being duly sworn, testified in his own behalf, in English, as follows:

Direct examination.

By Mr. KNAEBEL, attorney for plaintiff:

Q. Do you know the Antonio Chaves grant?

A. Yes, sir.

Q. When did you first see it?

A. In 1873.

Q. Who was living on it?

A. Anastacio Garcia, who claimed to own one-third.

Q. Who claimed to own the other?

A. Ramon Luna heirs and Rafael Luna owned a third.

Q. Did you know Anastacio Garcia?

48½ A. Yes, sir; I knew him very well.

Q. When did you become first interested in this grant?

A. I can't give the exact date except when I refer to my papers; in the year 1873.

Q. Have you continued interested ever since?

A. Yes, sir.

Q. From what means did you acquire your title?

A. Laura A. Bond, Latham L. Higgins, and Charles P. Arms.

Mr. KNAEBEL: I offer this in evidence.

(Plaintiff's abstract and conveyances.)

Q. Do you know the boundaries of the grant?

A. Those that are relied on in the papers, I do, and have been to them all, pointed out and located on the earth's surface. I protested against this survey and had it resurveyed, and changed the boundaries after the title passed to me.

49 This cause having been adjourned on the 13th of December, to allow the United States time in which to present its defense, the same was called up on this day, to wit, the 16th of March, 1893, for further hearing, and the following testimony was offered on behalf of the defendant, The United States, to wit:

Appearances: John H. Knaebel, Esqr., for petitioner; Matt. G. Reynolds, Esqr., for The United States.

Mr. REYNOLDS: If the court will remember, the plaintiff introduced his testimony-in-chief at the last term of court with the understanding that the Government would be allowed to offer any defenses it might have later on. I have filed an answer and am now ready to present my defense.

By the COURT: You may proceed.

JOSE ANTONIO BACA, being introduced on the part of the United States, testified, in Spanish, as follows:

Q. What is your full name?

A. Jose Antonio Baca y Pino.

Q. Where do you reside?

A. In Socorro, precinct number thirty.

Q. What is your age?

A. I will be eighty in the month of June.

50 Q. How long have you lived in Socorro and in that immediate vicinity?

A. All my life.

Q. Were you acquainted with Antonio Chaves in his lifetime?

A. Yes, sir.

Q. Were you acquainted with Francisco Baca in his lifetime?

A. Also; yes, sir.

Q. Who was Francisco Baca?

A. Juan Francisco Baca was a brother of mine.

Q. What, if any, official positions did he hold in that vicinity during his lifetime?

A. Alcalde.

Q. Do you know what is now called the Antonio Chaves grant in that community?

A. I know that they said it was from the Mesita Alamillo and below.

Q. You know where it is, do you not?

Mr. KNAEBEL: Objected to as leading.

By the COURT: Objection sustained.

Q. Have you been all over this grant?

A. I have been over it.

Q. Do you know of any springs on this grant?

A. Yes, sir.

Q. Commence and give us the different springs you have found, counting from the river to the west.

51 A. There are two, the Ojo de la Xinsa and the Ojo de la Jara.

Q. I will get you to state whether or not there is a spring in the arroyo?

A. There is one in the arroyo; it is the Ojo de la Xinsa, and the other is the Ariveche.

Q. Was the Ariveche known by any other name?

A. Not before—

Q. When was the name changed?

A. I do not remember. Some time ago there was a man who was herding some sheep there who was killed, and then the spring became to be known as the spring of Ariveche. I think it was about the year 1848.

Q. Why did they call the spring Ariveche?

A. I do know they killed a man there whose name was Ariveche. He was herding some sheep, and went to sleep at the spring and was killed there.

Q. When you were a young man, what was that spring called?

A. La Jara spring.

Q. Do you know why they called it La Jara?

A. Because there was great quantities of willow trees there.

Q. The other spring is called what—the one south of it?

A. The Ojo de la Xinsa.

Q. I will get you to state whether that grant when you were a young man was cultivated in any other places except along the river.

52 A. I never knew it cultivated. The cultivation of that grant, I think, first—I am not certain—was from the year 'forty-six or 'forty-eight.

Q. Was it ever cultivated until the acequia was taken out of the river?

A. Yes; the ditch was taken from the river by other people—the Lunas and Garcias.

Q. There never was any cultivation of that grant until the Lunas and Garcias took the acequia out?

A. That is as I know it.

Q. Do you know where Antonio Chaves lived?

A. Yes, sir; in Belen.

Q. Where did he die, if you know?

A. In Sabinal.

Q. Do you know whether he ever lived on this grant or not?

A. Never; he had a cattle ranch.

Q. Where was that?

A. At the Rancho de San Lorenzo, at the side of the river, below La Polvareda.

Q. Is that close to the river?

A. Yes; by the side of the river; the river has carried and swept it so there is nothing now.

Q. What official positions have you occupied in that community?

53 A. I was constitutional alcalde, justice of the peace, clerk, and secretary of the ayuntamiento, probate judge, and several other positions.

Q. When you were a boy, a young man, state how far west the people who sold used to go from the mountains.

A. They would not go beyond the mountains, because the Indians would kill them there, and when they made excursions they would go to the La Xinsa and the La Jara, but would return soon.

Q. Then, as I understand you, they never went west of the Ojo de la Xinsa and La Jara on account of the Indians?

A. That's why I think they never went beyond.

Q. Did you ever hear when you were a boy of people going west of the Bear mountains for the La Jara spring?

A. No, sir; now I know that there is another Ojo de la Jara.

Q. You have heard it since these Lunas and Garcias got this property, have you not?

A. Now recently; but that is in the Navajo country, in La Gallina.

Cross-examination.

By Mr. KNAEBEL, for petitioner:

Q. Was your brother, Francisco Baca, justice of the peace and constitutional alcalde of Socorro?

A. Yes.

54 Q. Was he the alcalde who gave Antonio Cheves possession of the Alamillo grant?

A. Antonio Chaves, who was placed in possession according to the order of the government.

Q. Is your brother living or dead?

A. He is dead.

Q. When did he die?

A. He died in 1880.

Q. A man of high character and reputation in the community in which he lived?

A. Yes; he always held positions.

Q. Have you ever seen the La Jara spring which is indicated on this map of the Alamillo grant on the northwest corner?

(Indicated to witness and witness shown map.)

Q. Have you ever been at the La Jara spring which has been laid down on this map?

A. I have been there many times, out camping.

Q. The spring called the Bear mountain, describe it—the Ojo de la Xinsa?

A. Is on the other side of the Bear mountain; the Ojo de la Jara is more to the north.

Q. How many times have you been at the Ojo de la Jara, near the mountain?

A. I do not remember.

Q. Have you been twice?

A. Yes.

55 Q. Have you been twenty times?

A. I do not know.

Q. Is that a very large spring?

A. No; that is a spring that rises in the cañon, among some willow trees; it is in the arroyo.

Q. Is it not situated in a piece of ground below and among willow trees, at least an acre in extent?

A. I think so; I have never measured it.

Q. Is your memory as good as it was formerly?

A. I think so.

Q. Did your brother, Juan Francisco Baca, know as much about the situation and occupation of this grant as you?

A. I think he knew more, because he was the judge. I never saw the grant, and he must have seen it.

Q. Was your brother better acquainted than you with the land grant and with its occupation?

A. Yes, sir.

Q. How old were you when Antonio Chaves died?

A. I was about forty.

Q. In what year did he die?

A. I do not remember.

Q. He died as much as twenty years ago?

A. I think so; it is not twenty; it is more.

Q. How old was he when he died?

A. I do not know.

56 Q. Did you know his wife?

A. Yes, sir; her name was Monica Pmo.

Q. How many cattle did Antonio Chaves have at any time?

A. I cannot state; I never saw his stock; I saw his ranch, and I knew that he was a rich man, but I did not see his money.

Q. How far from this grant did you live at that time?

A. In Socorro; about twelve miles, more or less.

Q. You cannot state how many cattle he had?

A. No, sir.

Q. Did he pasture the cattle under the care of herdsmen?

A. Yes.

Q. And the herdsmen drove them about the pastures of that country?

A. In the meadows; yes.

Q. When did you first see La Jara spring, that is near the Bear mountain?

A. I do not remember. We were in the habit of going out camping and often went to that place.

Q. Did you go there when you were a boy?

A. Yes.

Q. You had many other boys with you?

A. Many people.

Q. How many people went with you?

A. About thirty men, more or less. We would go there at the instance of the people; we would go for the Indians.

57 Q. Didn't you say you went there hunting?

A. No, sir.

Q. Didn't you say you went out camping there?

OFFICIAL TRANSLATOR: I have translated the word "campañear," used by witness, as camping.

U. S. ATTORNEY: Which means scouting or out campaigning.

Q. How old were you when you were there as a boy?

A. I must have been twenty-five.

Redirect examination.

By Mr. REYNOLDS, U. S. attorney:

Q. How long will it take you to walk on foot from the Rio Grande del Norte west to what you know as the old La Jara spring, what you call now the Ariveche?

A. It is about a day.

Q. A day from where?

A. From La Polvareda.

Q. The Polvareda is below the Arroyo San Lorenzo, on the river—south, is it not?

A. Yes, sir; to the south.

Q. Did you when you were a boy know anything about the spring in the Bear mountains called La Jara—west of the ridge of the Bear mountains?

A. That is another spring; that they now call the Ojo de la Jara. There are several other springs that I have known afterwards and that I know now.

58 Q. Ask him if the spring that is west of the ridge of the Bear mountains is the spring that he went to when he was a boy or the spring that is north of the La Xinsa.

A. The Ojo del Oso is to the west of the La Xinsa or also, which is now called Ariveche.

Q. When you were a boy did you ever go to the spring which is west of Santa Rita—beyond Santa Rita?

A. No, sir; that from the year forty to this date—that the tribe (nacion) of Navajos begun to be under subjection—I begun to be acquainted with those springs.

Q. Do you mean the spring beyond Santa Rita that is now the Ojo de la Jara?

A. Yes, sir.

Q. When did you know this first under the name of Ojo de la Jara?

A. I do not remember; it is a few years ago.

Recross-examination.

By Mr. KNAEBEL, for petitioner:

Q. A man named Ariveche was killed near the Xinsa spring?

A. There at that spring that is called La Xinsa the man by the name of Ariveche, who was in charge of a herd of sheep, and he was killed.

Q. He was right at that spring when he was killed?

A. Yes; the Aricheche; they are about six or eight miles from the Ojo de la Xinsa to the Ojo de la Ariveche.

59 Q. In what direction is the Ojo de la Ariveche to the Ojo de la Xinsa?

A. To the north.

Q. Is it in an arroyo?

A. Yes, sir; there are some cañons and some hills between the two springs, and there is a good deal of timber.

Q. How old were you when Ariveche was killed?

A. I do not know; those things did not attract my attention.

Q. Had you in those days anything to do with those springs or that country about?

A. No; nothing.

Q. Did you have any business in that country about those springs?

A. Nothing; I only knew them when I went out on an expedition.

Q. Were there any willows growing at the springs called Ojo de la Ariveche?

A. There were many of them.

Q. Is that the reason the spring was called Ojo de la Jara?

A. I think so; now they call it Ariveche.

Q. How many times have you heard that spring called Ojo de la Ariveche?

— — —
Q. Was it always called Ojo de la Ariveche?

A. Of late years that is *why* I have heard it called.

Q. How many years did you ever hear that spring called Ojo de la Jara?

A. Before, that was the only name it had.

CAYETANO TAFOYA, being introduced on the part of the United States, testified, in Spanish, as follows :

By Mr. REYNOLDS, U. S. attorney :

Q. What is your full name?

A. Cayetano Tafoya.

Q. Where do you live?

A. La Polvareda.

Q. What is your age?

A. I am about sixty-seven or sixty-six.

Q. How long have you lived in that vicinity or the country around?

A. Since I was born.

Q. Did you know Anastacio Garcia during his lifetime?

A. Yes, sir.

Q. Did you know Antonio Chaves during his lifetime?

A. I knew him for a time when I was young.

Q. Did you know Juan Francisco Baca?

A. Yes, sir.

Q. Do you know what is called the Antonio Chaves grant?

A. Yes, sir; I have heard it said where it is—they have told me.

Q. Do you know where there are any springs located on that grant?

A. Yes, sir.

Q. What are they called?

A. Now they are called—one San Loranzo, another Ariveche, and another La Xinsa.

61 Q. Do you know whether or not any of these springs were ever known by any other name?

A. Yes, sir; one.

Q. Which?

A. The one that is now known as the Ariveche.

Q. What is the name it was formerly known by?

A. Ojo de la Jara.

Q. Were you ever at that spring when it was known as the Ojo de la Jara?

A. Yes, sir.

Q. How did the name happen to be changed?

A. It was changed because they killed a man at that Cañon de Ojo de la Jara, and from that time to now I have heard the people call that the Cañada de Ariveche.

Q. Do you know what the name of the man was who was killed at that spring?

A. I do not say what his name was; he was called Ariveche.

Q. Do you know when the first cultivation of this grant was? Has this grant ever been cultivated, to your knowledge, at any other place except along the Rio Grande river?

A. The only thing that I know is, at the Ojo de la Xinsa there was a purchaser with a ranch.

Q. How long ago was that?

A. I don't know how long.

62 Q. At recent years?

A. Many years ago.

Q. Was there any land plowed up and cultivated?

A. Yes; there was; a small patch.

Q. When was the first time that you knew of any cultivation along the Rio Grande?

A. I dug the ditch that is now called of the Alamillo.

Q. Who did you dig that ditch for?

A. For Rafael Luna, Ramon Luna, and Anastacio Garcia.

Q. Was there any cultivation there before that time?

A. No, sir.

Q. Was there any cultivation at any place on that grant before that time?

A. No, sir.

Q. Was that grant occupied by anybody before that time?

A. No, sir.

Q. About how old were you when you dug that ditch for the Lunas and Garcia?

A. Maybe I was twenty-five years old.

Q. How far west would your expeditions go when they went out to hunt Indians?

A. At one time, when I went out with the commandant to plow up the lands (cortar la tierra) and seek for Indian tracts, we were gone a month; these people were detailed by the governor for one month—

Q. They were detailed for what?

63 A. To protect the place that the Indians might come in.

Q. They didn't send you out there to plow up lands, did they, for wheat and corn, &c.?

A. No, sir.

Q. Tell the court what you meant by "cortar la tierra."

A. To see if there are any Indian tracts on the lands.

Q. Did you ever hear of a spring in the Bear—beyond the Bear mountains—when you went out on these expeditions, called the Ojo de la Jara, and before you dug the acequia for the Lunas and the Garcias, the other side of the Santa Rita?

A. No, sir.

Cross-examination.

By Mr. KNAEBEL, for petitioner:

Q. Are you not entirely ignorant of the occupation of this land from the time of the grant for a period of ten years or more?

A. Yes; I was small; I think so.

Q. If the grant was made in 1825 and possession then given to Antonio Chaves, you were only about two years old then, were you not?

A. Yes, sir.

Q. Were there passes and places of ingress and egress by which the savages and Navajos came over to the Rio Grande?

A. There were at the Puerto de Magdalena and the Carrizo.

Q. Are these places in the mountains?

64 A. Yes; in the Magdalena mountains.

Q. Were you ever at the cattle ranch occupied by Antonio Chaves on the grant?

A. Yes, sir; at one time I was there.

Q. Did Antonio Chaves transfer the actual possession of that grant to Garcia, Rafael Luna, and Ramon Luna?

A. I heard it said.

Q. And don't you know that Anastacio Garcia lived on that grant after Chaves left it?

A. Yes, sir.

Q. Is Anastacio Garcia dead?

A. Yes, sir.

Q. How long ago did he die?

A. It is a very short time ago, a few months ago.

Q. Did he not live on that grant all his life, after he got it from Chaves?

A. Yes, sir.

Q. When you were a boy did people have many cattle in that country?

A. No, sir; at one time, when I was young, I saw this many Chaves and his sons.

Q. Did he have many cattle there?

A. Yes, sir; many.

Q. Did he have them under the charge of herdsmen?

A. So I heard it said.

65 Q. In those days it was customary for herdsmen to carry arms to protect themselves against the Indians?

A. Yes, sir.

Q. Did they pasture herds where they could find pasture and water?

A. Yes; from the San Lorenzo below to the side of the river they would pasture.

Q. They would pasture on the plains?

A. Yes, sir.

Q. What is the character of the grass there, on this Antonio Chaves grant?

A. Grama.

Q. Have you ever seen a map of that grant?

A. No, sir, until this morning; I do not know if it is the map.

Q. Were you well acquainted with Anastacio Garcia in his lifetime?

A. Yes, sir.

Q. Don't you know that he claimed this land to be bounded on the east by the Rio Grande?

A. Yes, sir.

Q. And on the west by the La Jara spring of the Oso mountains?

A. He said the Ojo de la Jara; I don't know what particular locality he called the Ojo de la Jara.

Q. How many years have you heard the spring near Bear mountain called the Ojo de la Jara?

66 A. No, sir; I have heard people call over there the Cerro Colorado the La Jara.

Q. Do you know the La Jara spring which is near the Bear mountain?

A. No, sir.

Redirect examination.

By Mr. REYNOLDS, U. S. attorney :

Q. From whom did you first hear that there was a grant there?

A. When I heard it said about that grant I was very young.

Q. Who first told you about the boundaries?

A. I do not know who told me first; but with my cousin, Anastacio Garcia; he and I would converse and he would tell me.

Q. Was that before or after he bought it?

A. After he bought it.

Q. Did you ever see Antonio Chaves pasture any stock on that grant?

A. Yes, sir.

Q. What part of it?

A. There in the grove of the river.

Q. What river?

A. Rio Grande.

Q. Did you ever see him pasture any stock as far out as the Salado?

A. I do not know where they call it.

Q. As far as the Carrizo and on the Salado, did you ever see or know of Antonio Chaves to pasture stock out that far?

67 A. No, sir.

Q. That section of the country was overrun with Indians, was it not?

A. Yes, sir; by the Indians.

L. M. BROWN, being introduced on the part of the defendant, testified, in English, as follows:

Direct examination.

By Mr. REYNOLDS, U. S. attorney :

Q. Where do you reside?

A. Socorro.

Q. What is your occupation?

A. United States deputy surveyor.

Q. I will get you to state whether or not you have had occasion more than once to examine the topography of the country of what is called the Antonio Chaves or Arroyo de San Lorenzo grant?

A. Yes, sir; I have had one occasion to make a topographical survey of it.

Q. Have you examined it recently at my request?

A. Yes, sir.

Q. I will get you to state whether or not you examined it in con-

nection with the two witnesses who have just preceded you, Jose Antonio Baca and Cayetano Tafoya.

68 A. Yes, sir.

Q. I will get you to state if you know the location of the various springs on that grant as claimed.

A. Yes, sir.

Q. Do you know where to locate the spring that is now called the La Xinsa spring?

Mr. KNAEBEL: I ask that witness be examined as to the source of his information, whether by talking with these other witnesses, with other people, or from whom.

No ruling.

A. Yes, sir.

Q. Do you know which is now called the Ariveche spring?

A. Yes, sir.

Q. And do you know what is now called the La Jara spring, that lies out in the Bear mountains?

A. Yes, sir.

Q. Do you know the location of the Arroyo de San Lorenzo?

A. Yes, sir.

Q. Do you know the location of the Arroyo Salado?

A. Yes, sir.

Q. Do you know the location of the Bear mountains?

A. Yes, sir.

Q. Now, where—designate it on this map—the La Xinsa spring, as it is now known?

Map given witness.

69 A. In this valley marked La Xinsa valley, about a mile and a half from the south line of the grant as it appears on this map.

Q. Where is the Ariveche with reference to the La Xinsa?

A. It is north and a little west of the La Xinsa, about five miles, or little less, west and north of the La Xinsa spring.

Q. Is there a spring in the arroyo near it?

A. I think the San Lorenzo is *the* in the arroyo near it.

Q. I will get you to state what is the condition of the country around this Ariveche spring.

A. There are a quantity of willows.

Q. Have you ever been to this La Jara spring that is west of the Bear mountain?

A. Yes, sir.

Q. What is the condition of the country there with reference to trees, &c.?

A. There are a few willows.

Q. As compared with the Ariveche springs—with reference to the Ariveche spring and the Ojo de la Jara, in the Bear mountains—give the comparative quantity.

A. The *the* Ojo de la Ariveche has the greater growth.

Q. How much more?

A. Five to seven times as much.

Q. Did you go to these springs with these two witnesses who have just preceded you?

70 A. Yes, sir.

Q. I will get you to state how much of the grant is now under cultivation.

A. There are some Americans that have some farms there, who claim it as government land, in front and along the river; there may be possibly one hundred to seventy-five acres. At the La Xinsa spring there is probably ten acres.

Q. I will get you to state when was the first of that cultivation.

A. West of the river was put in cultivation within the last six years.

Q. How long have you known the grant?

A. Since eighty-one.

Q. Has the cultivation west of the river commenced since you knew the grant?

A. Yes, sir.

Q. Has it been cultivated anywhere else except the river?

A. Yes, sir; up here (indicating on map) at another spring in the northwest corner of the grant, as shown on this plat.

Q. How recent is that cultivation?

A. Within the last four years.

Cross-examination.

By Mr. KNAEBEL, for petitioner:

Q. For whom did you make a topographical map?

A. H. M. Bond.

71 Q. At the time they purchased an interest in them?

A. Yes, sir; previous to that I had knowledge of them.

Q. On your topographical map did you run to the La Jara spring as it is in the Government survey?

A. I think I did. I don't recollect. It was eight years ago when I made that survey.

Q. Did you make that survey for the parties who sold to Mr. Bond?

A. I do not know. The field-notes were handed to me and I run the lines according to them, and I do not recollect anything about — nor the different boundaries.

Q. Look at the field-notes of the Antonio Chaves grant (handing witness a book) of the Government survey. It is certified to as being correct. Did you follow that?

A. Yes, sir.

Q. Did you find the monuments as laid down there?

A. No, sir.

Q. Did you find the La Jara spring, as indicated there?

A. Yes, sir; in the northwest corner of the survey.

Q. At that time did you know anything as to any error in the selection of the La Jara spring in the northwest corner of the survey?

A. No, sir; that did not interest me at that time. I merely followed the field-notes they furnished me, and that was all.

Q. In the topographical survey, have you it down as on the northwest corner?

72 A. I did; that is where it was located.

Q. On that occasion did you say anything to Judge Bond contrary to the statements of the field-notes?

A. I think I told him that I found a quarter of a mile mistake in the survey.

Q. Is not the spring at the northwest corner of the grant as surveyed by the United States the only La Jara spring known on the grant, except what these two witnesses say?

A. No, sir.

Q. Explain what you mean.

A. You ask me if these two witnesses were not the only ones; they are not the only ones; there have been others talk about it.

Q. Did you have any of this information when you made this topographical survey?

A. No, sir.

Q. At that time you believed the only La Jara spring was that indicated on the United States survey?

A. I knew there were two La Jara springs, but I did not know the location of one, and I was not sent out there to go over the boundaries as called for in the grant, but merely to retrace the Government survey.

Q. But at the time you made this topographical survey the spring of La Jara taken from the United States survey was
73 the only one that you know of having any relation to this grant?

A. Yes, sir.

Q. Do you speak Spanish?

A. I speak it some, but not fluently or correctly.

Q. Where is your topographical map?

A. I turned it over to Judge Bond.

Q. Have you a copy of it?

A. No, sir.

Q. Will you indicate where upon these field-notes (giving witness same book) where the La Jara spring is mentioned?

A. Here (indicating), on pages thirty-three and thirty-four.

Witness excused.

Mr. REYNOLDS: I offer in evidence the testimony of Juan Francisco Baca, who delivered juridical possession of the grant, taken before the surveyor general, said witness, as has been testified to, being now dead, and also I offer in evidence the testimony of Francisco Chaves, saying he was present when the above testimony was taken.

Exhibit A for the defendant.

Mr. REYNOLDS: I shall have a map drawn, as shown by the testimony of these witnesses, of this grant.

And the Government rests.

74 Mr. KNAEBEL : We are here, if the court please, to discuss this title, so far as the title papers, genui-ness, *and* &c., are concerned ; but it appears a serious question has arisen from the testimony offered on behalf of the Government as to the extent of the boundaries. Before the case is finally submitted I would like to be allowed to present testimony on this question. Not being prepared and having all along relied on the lines as established by the survey made by the Government, we shall ask for time.

Mr. REYNOLDS, U. S. attorney : I offer no objection.

By the COURT : This cause will, then, go over to the next term of court.

75 And be it farther remembered that on the 13th day of March, A. D. 1893, the same being the 4th day of the March term, the following proceedings were had, to wit :

The above-entitled cause coming on to be farther heard, there appeared John H. Knaebel, Esq., attorney for the petitioners, and the defendants by Matt. G. Reynolds, Esq., United States attorney. Witnesses were examined and documentary evidence was introduced for and on behalf of the defendant, and pending the same the cause was continued to the next term.

76 And be it further remembered that thereafter, to wit, on the 11th day of July, A. D. 1893, a motion was filed in the said office in the words and figures following, to wit :

77 UNITED STATES OF AMERICA, *ss.* :

In the Court of Private Land Claims, Santa Fé District, July Term, 1893.

MARTIN B. HAYES, Plaintiff,	} No. 37.
<i>vs.</i>	
THE UNITED STATES, Defendant.	

Motion.

Comes now the United States, by its attorney, Matt. G. Reynolds, and moves the court to correct the entry of record on the 13th day of December, 1892, made in said cause, which said entry is a submission of said case to the court, and which was inadvertently and by mistake entered by the clerk, and the same be made to show that upon the introduction of proof on behalf of the plaintiff said cause was continued for further hearing on behalf of the United States.

(Signed)

MATT. G. REYNOLDS,
U. S. Attorney.

78 And be it further remembered that thereafter, to wit, on the 29th day of July, A. D. 1893, there was filed in the said office the petition of the plaintiff for a commission to examine Hiram G. Bond as a witness ; which petition is in the words and figures following, to wit :

79 In the United States Court of Private Land Claims.

MARTIN B. HAYES
vs.
THE UNITED STATES OF AMERICA. }

To the Honorable Joseph R. Reed, chief justice of the United States court of private land claims:

Your petitioner, Martin B. Hayes, plaintiff in the above-entitled cause, respectfully shows unto the said court as follows, to wit:

The testimony adduced by the defendant in the said case regarding the location of La Jara spring was a great surprise to your petitioner, inasmuch as in his dealings with the Antonio Chaves grant for a period of upwards of twenty years last past he had never, until the giving of the said testimony, heard even the slightest intimation that the northwest corner of the said property had been erroneously located by the U. S. surveyor general for New Mexico, and he and his immediate vendors of the said property, namely, Laura A. Bond, Charles D. Arms, and Latham L. Higgins, bought the said property at an expense now exceeding, with interest, the sum of one hundred thousand dollars, upon the faith of the true location of the said corner by the said survey and of the declarations and statements of former owners of the said property, and especially of Anastacio Garcia, who was in actual possession of the said property, owing one undivided third part thereof when he sold his said interest to the said Bond, Arms, and Higgins.

The said Anastacio Garcia is now dead. Hon. Hiram G. Bond, husband of the said Laura A. Bond, acted for the said purchasers of the said Garcia interest, and your petitioner is informed and believes that while the said Hiram G. Bond was actually upon the said property, personally negotiating with the said Garcia for the said purchase of the said interest, and immediately before the said conveyance thereof, the said Garcia pointed out to the said Hiram G. Bond the La Jara spring named in the granting decree herein and located the same at the point at which "La Jara spring" is laid down on the said survey.

The said Hiram G. Bond resides at Seattle, in the State of Washington, and is unable to appear and attend personally before this court. He is an important and material witness in behalf of your petitioner upon the trial of this cause, and by him, as such witness, your petitioner expects to prove competent declarations made as aforesaid by the said Garcia to the said Hiram G. Bond respecting the boundaries and boundary calls of the said Antonio Chaves grant, and especially the true situation and location of the La Jara spring named in the said granting decree, and also the said Bond's personal knowledge and examination of the said boundaries and boundary calls, and such other facts within the knowledge of the said Bond as are relevant to the issues in this cause.

Wherefore your petitioner prays an order for the taking of the deposition of the said Hiram G. Bond as a witness in this cause, at

Seattle, at a time to be fixed by the court, before Hon. William H. Brinker, of Seattle, United States attorney for the State of Washington, or before some other competent authority, and that a commission may be issued out of this court accordingly.

Dated July 25, 1893.

(Signed)

MARTIN B. HAYES.

(Signed) JNO. H. KNAEBEL, *Plff's Att'y.*

81 STATE OF COLORADO, }
County of Arapahoe, } 88:

Martin B. Hayes, being duly sworn, deposes and says that he is the petitioner described in and who subscribed the foregoing petition; that he has read the said petition and knows the contents thereof; that the same is true of his own knowledge, except as to the matters therein stated to be alleged on his information and belief, and that as to those matters he believes it to be true.

(Signed)

MARTIN B. HAYES.

Subscribed and sworn to before me this 25th day of July, 1893.
My commission expires April 12th, 1897.

[SEAL.]

CHAS. M. BICE,

Notary Public.

82 And be it further remembered that afterwards, on the same day, to wit, the 29th day of July, A. D. 1893, there was made and entered in the said cause an order in the words and figures following, to wit:

83 At a stated term of the United States court of private land claims, held at the city of Santa Fé, on the — day of July, A. D. 1893.

Hon. Joseph R. Reed, chief justice, presiding.

MARTIN B. HAYES

vs.

THE UNITED STATES OF AMERICA. }

Upon reading and filing the petition of the plaintiff, dated July 25th, 1893, and after hearing Mr. Knaebel, of counsel for the plaintiff, and Mr. Reynolds, U. S. attorney, of counsel for the defendant—

It is ordered that the prayer of the said petition be granted, and that a commission issue out — and under the seal of this court, directed to F. B. Tipton, Esquire, notary public, of the city of Seattle, State of Washington, empowering the said notary public to take and certify the deposition of Hiram G. Bond, of Seattle, Washington, as a witness in this cause on behalf of the plaintiff, upon such interrogatories and cross-interrogatories as shall within the next five days be filed in this cause with the clerk of this court; such interrogatories and cross-interrogatories to be annexed to the said commission and (with the said deposition) to be returned therewith to the said clerk; the said deposition to be taken at the office of the said

notary, in the said city of Seattle, on the eighth day of August, A. D. 1893, at eleven o'clock in the forenoon, and on such subsequent days as may be convenient.

84 And be it further remembered that, pursuant to the said order, such proceedings were had that the witness, Hiram G. Bond, was examined on interrogatories before F. B. Tipton, a notary public, at Seattle, Washington, and the deposition so taken and also the commission, interrogatories, objections, and other matters constituting the said proceedings were thereafter filed in the said office, to wit, on the 26th day of October, A. D. 1893, and are in the words and figures following, to wit:

85 The President of the United States of America to F. B. Tipton, notary public, rooms 427-428 Baily building, cor. Second and Cherry streets, Seattle, Washington, Greeting:

Know ye that we, in confidence of your prudence and fidelity, have appointed you a commissioner, and by these presents do give you full power and authority diligently to examine, upon his corporal oath, before you to be taken, Hiram G. Bond, now sojourning at Seattle aforesaid as a witness on the part of the plaintiff in a certain cause now pending, undetermined, in the court of private land claim- of the United States of America, sitting in the city of Santa Fé, Territory of New Mexico, wherein Martin B. Hayes is plaintiff and The United States of America is defendant, on the interrogatories hereunto annexed.

And we do require you, before whom such testimony may be taken, to reduce the same to writing and to close it up, under your seal, directed to James H. Reeder, clerk of the court of private land claims, &c., Santa Fé, New Mexico, and that you return the same, when executed as above directed, annexed to this writ, with the title of the cause endorsed on the envelope of the commission, into the said court of private land claims, &c., before the justices thereof, with all convenient speed.

[SEAL.]

JAMES H. REEDER, *Clerk*,
By IRENEO L. CHAVES, *Deputy*.

JNO. H. KNAEBEL,

Plff's Att'y, 404 Equitable Building, Denver, Colorado.

86 In the U. S. Court of Private Land Claims.

MARTIN B. HAYES	}
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Interrogatories to be annexed to the commission in the above-entitled cause, and to be propounded on the part of the plaintiff to Hiram G. Bond, a witness.

First interrogatory. What is your name, age, and occupation, and where do you reside?

Second interrogatory. Do you know the plaintiff, and how long have you known him, and are you one of the grantors in the deed of conveyance in evidence in this cause, under which he acquired title to the Antonio Chaves grant?

Third interrogatory. Are you acquainted with the tract of land in the county of Socorro, New Mexico, which is known as the "Antonio Chaves grant;" and, if so, how long have you been acquainted with the said property?

Fourth interrogatory. If you were concerned in negotiating for the purchase of the said property from Anastacio Garcia and the heirs of Ramon Luna and Rafael Luna, state whether or not in the course of the said negotiations, and at what time, the said Anastacio Garcia, while upon the said property, made any declarations to you respecting its boundaries and boundary calls in indicating the same to you; and, if yea, what declarations, and when were they made?

87 Fifth interrogatory. If the said Anastacio Garcia, in the course of the said negotiations and while he and you were personally upon the said property, made to you any declarations respecting the situation and location of the La Jara spring named in the grant title papers of the said grant, state what those declarations were, and also whether or not the said Anastacio Garcia on such occasion or occasions pointed out to you the situation of the said spring, and, if yea, at what point he so indicated the same to be.

Sixth interrogatory. If, pending the said negotiations and while you and the said Anastacio Garcia were personally present upon the said land, the said Anastacio Garcia made to you any declarations as to the possession, occupation, and claim of the said property by the grantee, Antonio Chaves, and by himself and his co-owners, Ramon Luna and Rafael Luna, what did he so declare to you, and when?

Seventh interrogatory. Were the declarations and statements so made to you by the said Anastacio Garcia made before or after the purchase of the said property and the payment of the purchase-money by Laura A. Bond, Charles D. Arms, and Latham L. Higgins?

Eighth interrogatory. In what capacity and at whose request were you acting in making the said negotiations?

Lastly. Do you know of any other matter or thing touching the matters in question that may tend to the benefit or advantage of the said plaintiff? If so, declare the same fully and at large as if you had been particularly interrogated thereto.

(Endorsed on the back :) Filed July 29th, 1893. James H. Reeder, clerk, by Ireneo L. Chaves, deputy.

In the U. S. Court of Private Land Claims.

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The United States declines to file any cross-interrogatories for *for* the reason that the testimony sought, as indicated by the interrogatories, seems to be a conversation between the purchaser or his or their agent and their vendors, and has no tendency to establish against the United States the validity of the original grant and its boundaries, to which the United States was not a party and by which it is in no way bound.

That the same occurred long subsequent to the treaty of Guadalupe Hidalgo, as of which date the rights of the plaintiff as against the United States must be adjudged, and the same can in no way affect the rights and obligations of the United States standing in the place of the Mexican government, nor to establish its use and occupation under the Mexican government prior to the treaty of Guadalupe Hidalgo.

The United States objects to the following interrogatories, to wit, fourth, fifth, sixth, seventh, eighth, and lastly, and for grounds of objection says, the same call for testimony in its nature hearsay, and also for representations made by the vendor to vendee as to the title and possession and boundaries as claimed by the plaintiff's vendor, by which the United States is in no way bound.

MATT. G. REYNOLDS,
U. S. Attorney.

It is stipulated that the deposition of Hiram G. Bond may be taken upon the interrogatories, subject to the foregoing objections and reservations, and this stipulation shall be attached thereto and returned by the commissioner.

JNO. H. KNAEBEL,
Attorney for the Plaintiff.
 MATT. G. REYNOLDS,
U. S. Attorney.

89 In the United States Court of Private Land Claims.

MARTIN B. HAYES
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 THE UNITED STATES OF AMERICA. }

Deposition of Hiram G. Bond, Taken Pursuant to Commission Hereunto Annexed.

STATE OF WASHINGTON, }
 County of King, } *ss:*

Be it remembered that, pursuant to the commission for the taking of depositions, hereunto annexed, and — the 19th day of October, A. D. 1893, at my notarial office, in rooms 427 and 428, in the Bailey

building, at the corner of Second and Cherry streets, in the city of Seattle, in the State of Washington, before me, the undersigned, F. B. Tipton, a notary public in and for the State of Washington, duly commissioned, appointed, qualified, and sworn, personally appeared HIRAM G. BOND, the person named in said commissioned and produced as a witness on behalf of the plaintiff in said action, now pending in said court, who, being by me first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified upon the interrogatories hereto annexed as follows, to wit:

First interrogatory. What is your name, age, occupation, and where to you reside?

Answer. My name is Hiram G. Bond; my age is fifty-five years; my occupation is that of a lawyer; I reside in Seattle, Washington.

Second interrogatory. Do you know the plaintiff, and how long have you known him, and are you one of the grantors in the deed of conveyance in evidence in this cause, under which he acquired title to the Antonio Chaves grant?

90 Answer. Yes, sir; I know the plaintiff. I have known him about twenty-five years. I am one of the grantors named in the deed of conveyance described.

Third interrogatory. Are you acquainted with the tract of land in the county of Socorro, New Mexico, which is known as the "Antonio Chaves grant;" and, if so, how long have you been acquainted with the said property?

Answer. I am acquainted with the property and have been since about 1880.

Fourth interrogatory. If you were concerned in negotiating for the purchase of the said property from Anastacio Garcia and the heirs of Ramon Luna and Rafael Luna, state whether or not in the course of the said negotiating and at what time the said Anastacio Garcia, while upon the said property, made any declarations to you respecting its boundaries and boundary calls in indicating the same to you; and, if yea, what declarations, and when were they so made?

91 Answer. I was the party who negotiated the purchase of said property. Mr. Garcia did describe the boundaries of the property to me at his house, upon the property, prior to my purchasing the same for myself and associates, and at the time I made the inspection of the property pending such negotiations. I cannot now recall the date, but I would say it was two or three months before the actual transfer of the property; it may have been more and it may have been less. He made statements to me regarding the boundaries of said property, and expressly pointed out to me the northeastern boundary point, which, as I recollect it, was near or upon a little mesa on the Rio Grande river, and he also pointed out to me the boundary line as it ran through what is known as the San Loranzo arroya. He also pointed out to me upon a map which I had in my possession at the time, that had been made in the surveyor general's office of the Territory, the La Jara spring, located at the northwest corner of said property. Said spring was about twenty-eight miles distant from the Rio Grande river as it appeared

upon the map. He informed me that he could not give me the precise location of the corner, but that it had been settled by a rule in the Land Department in Washington to be point made by the junction of a line running directly south from the La Jara spring with the line running east and west on the southerly line of said grant, to wit, commencing on the Rio Grande river and running through the San Loranzo arroya to the westerly boundary of the property. He also enumerated to me the various springs upon the property, one of which I remember he called the La Jensa spring, and another the name of which I have forgotten, but it was described as being the spring used at the time by a man named Fowler, who had squatted upon the property and was pasturing some cattle thereon. I had immediately previous to this interview made a trip over the property and had personally examined the most of it. I talked with Mr. Garcia in detail with reference to the coal and mineral found upon the property, and also with reference to the quality of the grasses on Bear mountain during the winter.

Interrogatory fifth. If said Anastacio Garcia, in the course of the said negotiations and while he and you were personally upon the said property, made to you any declarations respecting the situation and location of La Jara spring named in the grant, title papers of the said grant, state what those declarations were and also whether or not the said Anastacio Garcia on such occasion or occasions pointed out to you the situation of the said spring; and, if yea, at what point he so indicated the same to be.

Answer. I have answered the question in the preceding answer. I might add, however, that at said time I also especially asked him whether or not there had ever been any other spring by the name of La Jara spring. He said there never had been, to his knowledge. I then inquired of him why it was that Mr. Hayes, who had a bond from him of the property, had applied to the surveyor general for a resurvey of the boundaries of the property, when they had been once established by a Government survey. He said that he had understood that there had been an effort to extend the boundaries of the grant some miles west of the line claimed by him, and

an effort made to give the name of La Jara spring to another spring located at the point to which it was intended that the boundary should be extended. He said the effort failed, however, because there was no evidence that the spring indicated was ever known as the La Jara spring, nor was there any evidence that any claim was ever made to the property extending beyond the westerly line of the boundary of the grant as indicated by the first Government survey.

Sixth interrogatory. If, pending the said negotiations and while you and said Anastacio Garcia were personally present upon the said land, the said Anastacio Garcia made to you any declarations as to the possession, occupation, and claim of the said property by the grantee, Antonio Chaves, and by himself and his co-owners, Ramon Luna and Rafael Luna, what did he so declare to you, and when?

Answer. He made such declarations, and during the negotiations leading up to said purchase of said grant I directly questioned

with respect to his title to the property. He said that he had been familiar with the property for years before he purchased it of Minico Pino, the widow of Antonio Chaves, to whom the grant was made by the Mexican government. He said that Antonio Chaves had occupied and been on the property himself for about twenty-five years, and that he himself and Rafael and Ramon Luna, who were his co-owners, together with their heirs after their decease, had been in possession of and occupied the property ever since; that there had never been any dispute of question of his right to possess and occupy said property. He said he was prepared to give me a warranty deed against everybody but the United States, and that he considered his title perfect under the treaty made by the General Government with the government of Mexico, recognizing all titles to property that were valid under the Mexican laws.

Subsequently to the purchase of the property by himself and associates and pending the litigation by us against one Bruton, who had succeeded the Mr. Fowler before referred to as a squatter upon said property, I had occasion to again call upon Mr. Garcia for some information respecting the title to the property, and at that time again discussed the question of its boundaries, when he again affirmed what he had before told me respecting them. Prior to the purchase of said property I conversed with a number of Mexicans as to the history of the grant and the title to the property, and especially with one Antonio Abaytia; also with an old man by the name of Bacca, whose first name I do not now remember. Both of them assured me that there was no question of the title of the property, and that the boundaries as marked upon the map were those that had been always recognized by the community as the correct boundaries. I have on three several occasion- visited different parts of the grant and talked with people living near, and some of them who were living temporarily upon it, and I never heard mentioned the name of any spring being called La Jara spring other than the one first indicated by me. Names were given to every spring upon the property, but none of them except the one at the northwest corner of the property were ever called La Jara.

95 Seventh interrogatory. Were the declarations and statements so made to you by the said Anastacio Garcia made before or after the purchase of the said property and the payment of the purchase-money by Laura A. Bond, Charles D. Arms, and Lathan L. Higgins?

Answer. They were made both before and after, as before stated.

Eighth interrogatory. In what capacity and at whose request were you acting in making said negotiations?

Answer. I acted in the capacity of agent for said Charles D. Arms and Lathan L. Higgins, and I was acting for myself and wife, Laura A. Bond, and at the request of all the parties named.

Lastly. Do you know of any other matter or thing touching the matters in question that may tend to the benefit or advantage of

the said plaintiff? If so, declare the same fully and at large as if you had been particularly interrogated thereto.

Answer. I recall nothing at present.

(Signed)

HIRAM G. BOND.

Subscribed and sworn to before me this 19th day of October, A. D. 1893.

(Signed)

F. B. TIPTON,

[L. s.]

*Notary Public in and for the State of Washington,
Residing at the City of Seattle, in said State.*

96 STATE OF WASHINGTON, }
County of King, } ss:

I, F. B. Tipton, a notary public in and for the State of Washington, duly appointed, commissioned, qualified, and sworn, do hereby certify that the above and foregoing deposition was taken before me and reduced to writing by myself, at my notarial office aforesaid, in rooms 427 and 428, in the Bailey building, at the corner of Second and Cherry streets, in the city of Seattle, in said State of Washington, on the 19th day of October, A. D. 1893, pursuant to the commission hereunto annexed; that the above-named witness, Hiram G. Bond, before examination, was sworn by me to testify to the truth, the whole truth, and nothing but the truth, and that the said deposition was carefully read by said witness and then subscribed by him.

Witness my hand and official seal this 19th day of October, A. D. 1893.

[L. s.]

F. B. TIPTON,

*Notary Public in and for the State of Washington,
Residing at the City of Seattle, in said State.*

Notarial Fees.

Swearing witnesses.....	8	25
Certificate.....		50
Postage ...		05
Copying 21 folios, at 25 cts. per f.	5	25
		<hr/>
		86 05

Paid by plaintiff.

Endorsed: "G. No. —; "T. No. 16." "Filed in the office of the clerk, court of private land claims, Oct. 26, 1893. Jas. H. Reeder, clerk, by I. L. Chaves, deputy."

97 And be it farther remembered that on the 13th day of November, A. D. 1893, the same being the 1st day of the November term, the following proceedings were had, to wit:

The above-entitled cause was set for trial on the 23rd day of November, A. D. 1893.

98 And be it farther remembered that on the 23rd day of November, A. D. 1893, the same being the 10th day of the November term, the following proceedings were had, to wit:

The above-entitled cause being called up for trial, there appeared John H. Knaebel, Esq., and James E. Fitch, Esq., for plaintiff, and Matt. G. Reynolds, Esq., for the defendant, The United States, and, announcing themselves ready for trial, the same was proceeded with on the pleadings presented, the same having been put at issue by answer of the United States; and plaintiff thereby put to the proof of the allegations of his petition, and to properly deraign his title and show such a title entitling him to have the grant confirmed, introduced documentary and oral testimony and proof to sustain and support the same, and the hearing of said cause not being completed, the court took a recess until two o'clock p. m.

The — resumes its session at two o'clock p. m. The hearing of this cause was resumed, all the attorneys in the cause being present. Farther oral and *connebtary* proof was introduced and, the court not being concluded, when the court adjourned until tomorrow, at ten o'clock a. m.

99 And be it farther remembered that on the 24th day of November, A. D. 1893, the same being the 11th day of the November term, the following proceedings were had, to wit:

The hearing of this cause was resumed, all the attorneys in the cause being present; farther proof was offered and the United States presented in farther defense additional oral proof, and argument was commenced, was not concluded, when the court took a recess until two o'clock p. m.

The court resumed its session at two o'clock p. m., and the argument of said cause No. 37 was proceeded with and concluded on behalf of the plaintiff, when the court adjourned until ten o'clock on tomorrow morning.

100 In the Court of Private Land Claims, Santa Fé District, November Term, 1893.

MARTIN B. HAYS, Plaintiff,	} No. 37. "Antonio Chaves Grant."
vs.	
THE UNITED STATES, Defendant.	

This cause having been adjourned on the 16th day of March, 1893, until the next term of the court, to allow plaintiff to introduce testimony in rebuttal of that offered by the Government in this cause, the same was called up on this day, to wit, the 23rd day of November, 1893, the same being the ninth (9) day of the November term, 1893, and there appeared—

John H. Knaebel, Esquire, and James G. Fitch, Esquire, for petitioner.

Matt. G. Reynolds, Esquire, U. S. attorney, for the defendant.

Mr. REYNOLDS: In order that the proceedings may be kept regu-

lar, I ask leave to introduce some more oral testimony, and then petitioner may proceed with his case.

There was no objection.

101 MELQUIADES LUNA, sworn as a witness, testified on behalf of the United States, in English, as follows:

Examination by Mr. RYLANDS:

Q. Where do you live?

A. Socorro.

Q. What is your age?

A. Thirty-five.

Q. Who was your father?

A. Rafael Luna.

Q. Have you lived in that country all your lifetime?

A. I have lived in Socorro for thirteen years.

Q. Have you lived in that vicinity all your lifetime?

A. Yes; and I have lived at Los Lunas.

Q. Are you acquainted with a tract of land lying north of Socorro, and what is commonly called the Antonio Chaves grant?

A. Yes.

Q. How long have you known it?

A. Thirty years or so.

Q. Have you had occasion to go over it from time to time?

A. I have been over a little of it.

Q. Have you had occasion to herd stock over it?

A. I don't know whether it is in or outside of the grant; I had a ranch there, on what they call the Carbon Piedra, near Santa Rita.

102 Q. Do you know the names of any of the springs on that grant?

A. Yes; La Jara or Araveche, Lorenzo, and another spring there; I don't know the name of it.

Q. Do you know whether the Ariveche spring was ever known by any other name or not?

A. I have heard so.

Q. From whom?

A. I have heard it from several of the old fellows. I don't remember exactly who said, but I heard it called the La Jara.

Mr. KNAEBEL: I object to the answer as incompetent, irrelevant, and not responsive to the question, and as hearsay.

By the COURT: Admitted subject to the objection.

Q. Do you know whether your father was one of the owners of this grant, at any time?

A. Yes, sir.

Q. Did you ever hear your father say anything about it?

A. No, sir; I did not.

Q. Did you ever hear him say anything about the boundaries of the grant?

A. No, sir.

Q. Did you ever hear him say anything about the names of the springs?

A. Yes, sir.

Q. What?

103 Mr. KNAEBEL: I object to the questions for same reasons as stated above.

By the COURT: Admitted subject to the objection.

Q. Do you know Anastacio Garcia?

A. Yes, sir; in his lifetime.

Q. When did he die?

A. I don't know.

Q. Do you know whether he was one of the owners of this grant at any time?

A. Yes, sir.

Q. Did you ever have any conversation with him with reference to this line?

A. We had a little conversation.

Q. What was said?

Mr. KNAEBEL: Objected to.

Q. Did you ever hear him say what *was* the west boundary of the grant was when he owned it?

Mr. KNAEBEL: I object to it on the ground of incompetency and hearsay, and that no proper foundation has been laid.

By the COURT: Admitted subject to the objection.

Q. What did he tell you?

A. That the Ariveche was the west line of the grant.

Q. Were you at the spring at that time?

A. We were in a round-up there.

104 Q. Was there anything else said about the boundary of the grant—any other boundary?

A. No, sir.

Q. Do you remember when that was?

A. In 1883.

Mr. KNAEBEL: I might suggest to the court that was long after Anastacio Garcia had sold the property.

Q. What direction is the Ariveche spring from the La Jinza?

A. Little north.

Q. Do you know anything about the La Jara spring lying west of the Santa Rita?

A. There is a spring there; I think is called La Jara.

Q. What is the condition of the Ariveche with reference to the growth of brush and willows?

A. There are some willows there.

Q. Have you ever been to the other place?

A. No, sir.

Cross-examination by Mr. KNAEBEL:

Q. What is your business?

A. Stock-raising and farming.

Q. Do you know Jose D. Chaves?

A. Yes.

105 Q. What is the name of his wife?

A. Margarita Luna Chaves.

Q. What relation is she to you?

A. First cousin.

Q. Do you remember when Judge Hiram P. Bond and I were in Los Lunas and vicinity taking deeds of the Rafael Luna interest in the Alamillo grant?

A. No, sir.

Q. Don't you know that you participated in the sale of that grant to Hiram P. Bond, Latham L. Higgins, and Charles D. Arms?

A. All I sold was my interest to Luna.

Q. Which Luna?

A. Jose Maria Luna.

Q. Don't you know that those gentlemen paid one thousand dollars for the one-half interest of the heirs of Rafael Luna, of which you are one?

Mr. REYNOLDS: I object to it as incompetent.

By the COURT: Admitted subject to the objection.

Q. You say you did not?

A. No, sir.

Q. How did you happen to be upon the grant at the time referred to?

A. I was rounding-up some cattle that I had at the ranch there about eight miles from Jinza. I had a ranch there for two
106 years.

Q. On the grant?

A. I don't know whether it is on or outside of the grant.

Q. How many miles west of the Arroyo Ariveche was the ranch?

A. Between six and eight miles, I think.

Q. Did you make a deed to Jesus Maria Luna and Tranquilina Luna of your interest in the Alamillo in December, 1883?

A. I think so.

Q. Did you ever see a map of the grant?

A. No, sir.

Q. Were you present when a survey of the grant was made?

A. No, sir.

Q. What made you have any doubt as to whether your ranch was on the grant or not?

A. I didn't know how the boundaries laid. I tried to be outside of the ranch, but, of course, didn't know for certain.

Q. When did your father, Rafael Luna, die?

A. I don't know.

Q. Did he die when you were so young that you can't remember?

A. I was about fifteen years.

Q. Did he die fifteen years ago?

A. I don't remember when he died.

Q. Where did he die?

A. At Lemitar.

107 Q. Who was present when you had this conversation with Anastacio Garcia?

A. Jose Labadie and another, I believe, an Englishman.

Q. Who first told you you were wanted as a witness in this case?

A. Nobody.

Q. Did you come up here with Mr. Brown, the surveyor?

A. I was summoned here?

Q. Did you come up here on the train with Mr. Brown, the surveyor?

A. Yes, sir.

Q. Where did you meet him?

A. We started this morning.

Q. Did you know you were going to meet him and come up here?

A. Not until I saw him at the train.

Q. Did he take charge of you coming up here?

A. No, sir.

Q. Did you or not pay your own fare?

A. Yes, sir.

Q. Did you or not have any conversation about this case on the train with Mr. Brown?

A. No, sir.

Q. Did you ever have any conversation with anybody about this case?

A. Not that I remember of.

108 Q. Did you ever tell anybody until you were sworn here about the conversation with Anastacio Garcia?

A. I think I told Mr. Brown.

Q. Where?

A. In a store in Socorro.

Q. Did you tell him of your own motion?

A. Yes, sir.

Q. Just as you might have told anybody else?

A. Yes, sir.

Q. Didn't you know Mr. Brown had an interest in this property?

A. No, sir.

Q. It was a mere accident that you told him?

A. Yes, sir.

Q. He didn't make any inquiry?

A. No, sir.

Q. What month was it you told Mr. Brown?

A. About a month ago.

Q. At that time did you know that there was any litigation pending in this court about this grant?

A. No, sir.

Q. At that time did you know that Mr. Brown had been sworn as a witness in that litigation?

A. No, sir.

Q. Did you know he had been making inquiries about the boundaries of this grant?

109 A. No, sir.

Q. So far as you are able to state, then, Mr. Brown was a perfect stranger to those questions at the time you spoke to him?

A. Yes, sir; I knew him.

Q. What was your motive?

A. I don't know how it came up.

Q. Were the people talking about the grant at that time in that store?

A. No, sir.

Q. Then did you talk to Mr. Brown again about the case?

A. No, sir.

Q. Never said another word to him since?

A. No, sir.

Q. Is Mr. Brown the only person to whom you spoke from the time Anastacio Garcia spoke to you about this matter?

A. No, sir.

Q. You don't recollect anything about the survey of this grant?

A. No, sir.

Q. Do you recollect Judge Bond, Mr. Higgins, and Mr. Hays going over the grant?

A. No, sir.

Q. Have you ever been to the Ojo de la Jara, near La Jara peak?

A. No, sir.

110 Q. Describe to the court the spring you call Ariveche.

A. I can't describe it very well, as I just passed by.

Q. Give the court as much information as you can.

A. In the cañada the water runs right along the side——

Q. Where is the spring situated with reference to the bottom of the cañada?

A. It is pretty near the bottom.

Q. Do you swear it is near the bottom?

A. I do not know; I don't remember.

Q. Do you swear you think it is near the bottom? Is that what you think?

A. I think so; maybe it is at the top, on the hill. I haven't been there for a long time.

Q. You are not certain whether it is on the hill or on the bottom of the hill?

(No reply.)

Q. What made you think a little while ago it was on the bottom? Have you changed your mind?

A. No, sir.

Q. Do you now think it is on the hill?

A. I think it is on the bottom.

Q. Little while ago you thought it was—the hill. Do you think it was on the hill or on the bottom?

A. Near the bottom; it runs a little west from the cañada.

111 Q. How high up is the spring from the bottom of the cañada?

A. I don't know how high it is.

Q. Do you know that it is on the bottom of the cañada?

A. I think so.

Q. Do you know that it is above the cañada, on the hill?

A. No, sir.

Q. What is the name of the cañada in which you say the spring is?

A. Ariveche.

Q. Have you given the best description of that spring you say you can?

A. Yes, sir.

Q. How large a spring is that?

A. It was just a small spring when I saw it. I just crossed there; I didn't stop.

Q. State the whole conversation you and Anastacio Garcia had on that day.

A. We were talking there about the grant, and he said that was the west boundary of the Alamillo from the Cañada Ariveche.

Q. Cañada Ariveche?

A. Spring of Ariveche.

Q. Did you not say cañada?

A. It was the spring that runs in the Cañada Ariveche.

Q. Why did you say the boundary was the Cañada Ariveche?

A. The spring, I meant—

112 Q. Why did you say it?

(No reply.)

Q. Slip of the tongue, was it?

A. Yes, sir.

Q. How did this conversation commence?

A. I don't remember.

Q. How did he commence to talk about the boundary?

A. We were just speaking about the grant and that's how it came up.

Q. Did he mention any of the others?

A. No, sir; that's all; just a few words.

Q. What was the occasion of your being there?

A. He was branding cattle.

Q. What were you doing?

A. Rounding up cattle.

Q. Were you helping him?

A. No, sir; I was after my own.

Q. Were you an intimate friend of his?

A. Yes, sir.

Q. How old was he at that time?

A. I don't know; sixty years old, I guess.

Q. How old were you at that time?

A. I was then about twenty-seven years old.

113 Re-examination by Mr. REYNOLDS:

Q. You know there was a spring of water there, whether on the bottom or top?

A. I saw water running.

Mr. KNAEBEL: I object, because it is not proper redirect.

By the COURT: Admitted subject to the objection.

Witness excused.

ETHAN W. EATON, sworn, testified on behalf of the United States, in English, as follows:

Examination by Mr. REYNOLDS:

Q. What is your name, age, and residence?

A. Ethan W. Eaton is my name; age, sixty-six; residence, Socorro.

Q. How long have you lived in this Territory?

A. Since the year '49.

Q. Do you know where the Antonio Chaves land grant is situated, in a general way?

A. Yes, sir; I do.

Q. Did you know Anastacio Garcia in his lifetime?

A. I did.

Q. I will get you to state in your own way what, if any, conversation you ever had with him with reference to the Antonio Chaves land grant, its boundaries, and so forth.

114 Q. (continued). And the survey made by the United States and the claim made by the parties under the survey made by the surveyor?

Mr. KNAEBEL: I object to the question as incompetent, irrelevant, and hearsay, and no proper foundation has been laid.

A. Somewhere about the time the grant was sold or bargained for—various parties there was a great deal of conversation and talk passed between Mr. Garcia and myself and others; and as to the boundaries, I can't say further than Mr. Garcia stated, on various occasions, that they were attempting to survey more land than they had sold, and it being a matter that did not directly interest me, I didn't inquire; but that was the general impression of the conversation between Mr. Garcia and others—not directly to me. We were there at the store, which is a general stopping place for those going to Magdalena City, and the conversation came up at several times, and that was the substance of Mr. Garcia's remarks in relation to the grant.

Q. Was there anything said, Colonel, as to the points to which survey was being made by name?

A. I remember one point because it has been mentioned frequently since.

Q. What was said about it?

A. My recollection is that the Ojo de la Jara that they claimed was not the Ojo de la Jara that was intended in the grant.

115 Q. Do you know whether Anastacio Garcia is dead?

A. He is dead. I didn't see him die, nor after he was dead, for that matter, but it was so rumored.

No cross-examination.

LUCIANO CHAVES sworn, testified on behalf of the United States, in Spanish, as follows:

Examination by Mr. REYNOLDS:

Q. Give the stenographer your full name, age, and residence.

A. My name is Luciano Chaves; I am forty-nine years old; my residence, Polvadera, in the county of Socorro.

Q. Did you know Anastacio Garcia in his lifetime?

A. Yes, sir.

Q. Do you know Martin B. Hays?

A. I don't know now whether I should know him if I should see him.

Q. Do you know a man by the name of Hays, who pretends to own the Antonio Chaves grant?

A. I knew him about seventeen or eighteen years ago.

Q. Where did you first see him?

A. In my own house.

Q. What was he doing there?

116 A. Anastacio Garcia and himself came to my house with two witnesses, who they asked me to swear with reference to some statements relative to the line of Pablo Garcia ranch; they were Pablo Chaves and Antonio Garcia. I do not remember the rest.

Q. What was your official position at that time, if any?

A. I was justice of the peace.

Q. Did you examine any witnesses at that time?

A. Yes, sir.

Q. What witnesses?

A. Rinaldo Chaves and Francisco Chaves y Marquez.

Q. Did you hear any conversation between Rinaldo Chaves and Anastacio Garcia at that time about the western boundary of this grant?

Mr. KNAEBEL: I object to the question as incompetent and hearsay.

Q. (continued). Any statements made by Rinaldo Chaves about it?

Mr. KNAEBEL: Same objection.

By the COURT: Testimony may all go in subject to objections.

A. Yes, sir.

Q. What was it?

A. After he had stated under oath what the Pablo Garcia ranch was, they went away to take their dinner, about a mile from the place. When Mr. Garcia and Mr. Hays came back, then the con-

versation took place between Rumaldo Chaves, myself, and others.

The substance of the conversation was that Rumaldo Chaves
117 stated, My father told me that about 1828 or 1830 that the
grant of Antonio Chaves was made; that the grant was from
the spring that we at this day call Ariveche, and from that place
east to the river; and then Rumaldo Chaves asked him how it is
that they state beyond this plain is the La Jara; and then the father
of Rumaldo Chaves said, they want to steal this, and rob this, and
they were at the Ariveche, and his father said, that this place that
we are now is the Ojo de la Jara, it has been known by that name
from all time till Ariveche was killed; before that time it was
known as the Ojo de la Jara; at this time Don Anastacio Garcia
came into the room where we were and heard the conversation, and
said to Don Rumaldo Chaves, Shut up your mouth, and Mr. Chaves
did so.

Q. Do you know whether Mr. Hays was present or not?

A. I cannot state that; I cannot state whether he was in the
room or not, but it is certain he was either inside or outside some-
where.

Q. What time did he leave there that afternoon?

A. As far as I can remember, it was about one or two o'clock.

Q. Who did he leave with?

A. Don Anastacio Garcia and one other gentleman, Francisco
Chaves y Marquez, Rumaldo Chaves, and myself.

Q. What was done after you left there all together?

A. Francisco Chaves y Marquez and Rumaldo Chaves went
118 to show where the ranch of said Pablo was situated.

Q. He wants to know if you want him to state what Ru-
maldo Chaves said on direct examination.

Q. I want to know what the parties did after they left there.

A. They went there and showed where the ranch of Pablo Garcia
was situated.

Cross-examination by Mr. KNAEBEL:

Q. How old was Rumaldo Chaves at the time you had this con-
versation?

A. I cannot state exactly, but I can state more or less how old he
was.

Q. State it.

A. He was about sixty-five or seventy.

Q. How old was the other man—Francisco Chaves y Marquez?

A. He was probably four or five years younger than the other
fellow.

Q. Did this conversation occur in October, 1877?

A. I don't know when it was exactly, but it was about seventeen
or eighteen years ago.

Q. Describe how you took those sworn declarations.

A. I remember some of them only; I cannot say all.

Q. Did you have printed paper there with questions upon it?

A. No, sir; I had nothing.

Q. What record did you make of the depositions taken?

119 A. I only recorded in the book of the precinct the answers that the gentlemen made in reference to the ranch of Pablo Garcia.

Q. Look at papers now shown you—

A. There was another gentlemen who took statements on that occasion also.

Mr. KNAEBEL: I move to strike that out as not responsive to the question.

Mr. REYNOLDS: I object, and insist that it stay in the record. Witness has a right to make such a statement for his own self-protection.

By the COURT: Admitted subject to motion and objection.

Q. Look at papers—now shown witness—and state whether you recognize those as the papers taken out and executed at the time of the taking of the depositions of Rinaldo Chaves and Francisco Chaves y Marquez.

A. I think they are; that is my handwriting.

Said papers identified as Exhibits "A 1" and "A 2," respectively, for plaintiff.

Witness excused.

Mr. REYNOLDS: I offer now—I offered at the last term of the court part of the files in this case; I now offer all of the files in the case heretofore instituted before the surveyor general under the act of July 22, 1854.

120 Mr. KNAEBEL: I ask that they be admitted subject to any specific objection I may desire to make as to competency, etc.

Mr. REYNOLDS: Under strict rules, possibly none of them are competent, but I introduce them for what they are worth, having in mind the expressions of the Supreme Court in the California cases.

By the COURT: They may go in.

Defendant rests.

Plaintiff on Rebuttal.

Mr. KNAEBEL: I offer exhibits heretofore identified as "A 1" and "A 2," and will read them to the court.

(The said exhibits are annexed as Plaintiff's Ex. No. 3 and Plaintiff's Ex. No. 4.)

PABLO PADILLA, sworn, testified as a witness on behalf of the plaintiff, in Spanish, as follows:

Q. State your name, age, residence, and occupation.

A. Pablo Padilla is my name; I live at Polvadera, county of Socorro; fifty-seven years old, and a farmer.

Q. Where is Polvadera?

A. Ten miles above Socorro, on the north.

Q. How far is it from the Antonio Chaves grant?

A. About two or three miles.

Q. How long have you lived at Polvadera?

A. I have lived there all my lifetime.

121 Q. And during all that time have you known the Antonio Chaves grant?

A. I have known it since I can remember; the grant of Alamillo and the land of Antonio Chaves is what I know.

Q. Do you know the common repute in that vicinity from the time that you can first recollect as to the extent of that grant towards the west?

A. To the La Jara spring.

Q. Do you know the Ojo de La Jara, which is the western boundary of the grant?

A. Yes, sir.

Q. Have you seen it often?

A. Yes, sir.

Q. In which direction is that Ojo de la Jara situated from the Bear mountain?

A. It lies to the west.

Q. Do you know the Arroyo de la Jara, near which that spring is situated?

A. Yes, sir.

Q. Describe to the court the kind of vegetable growth about the Ojo de la Jara when you first knew it—the amount of its bushes.

A. There are some rushes and willows.

Q. Describe the willows as to their size.

122 A. In the year 1862, the first time that I knew this place, the growth of willows and rushes was very luxuriant and the growth was on both sides.

Q. Were there many willows on both sides?

A. Yes, sir; there were.

Q. Did you know Anastacio Garcia?

A. Yes, sir; I knew him well.

Q. Do you know the land claimed and occupied within the Antonio Chaves grant?

A. Yes, sir; I have not seen it personally, but I have known that they claimed as far as La Jara.

Q. When you say that you have not seen it personally you mean that you have not seen the grant paper personally—

A. That is what I mean.

Q. —but you saw the land?

A. Yes, sir; I saw the land since 1862.

Q. Did you ever hear of a man named Ariveche?

A. Yes, sir.

Q. Was he Mexican or Apache?

A. I did not know him personally; I only knew his name.

Q. When did you first hear his name?

A. In the year '58 we were camping at the Ojo de la Jinza, and while at that place I went about a mile further north, and my

father told me that the Cañada Ariveche was the place that they killed that man.

123 Q. Was the cañada a little spring?

A. I did not know any spring then, but I know it now.

Q. Do you know a cañada called the Cañada Ariveche?

A. Yes, sir; my father told me so.

Q. In all your lifetime, from your boyhood until within a few months, did you ever hear of any spring in the Cañada de Ariveche called or referred to as the La Jara?

A. No, sir; except in that short time stated to this time.

Q. Do you know a little spring that some people now call the Ariveche spring?

A. I do not know it, neither before nor now.

Q. Are there any willows growing, or have you ever known any willows to grow in the Cañada de Araveche?

A. I say that I don't know, and I have not known it before.

Q. What kind of trees and bushes do grow in the Cañada Araveche?

A. There is a good deal of wood at the place where I know the Cañada Araveche, but not all.

Q. Any particular kind of wood?

A. Palo blanco—at the place where I know the cañada down below there are no palo blanco; there is sabinal.

Q. Do you or don't you know a little spring—where it is—that is called Araveche?

A. No, sir; I do not know it.

Q. Were you called upon to fight Indians when they were at war in that country?

124 A. Many times. I fought against them for three years.

Q. Were Pablo Sanchez and N. Aragon with you in those campaigns?

A. They were with me sometimes and sometimes they were not.

Q. Do you know Jose Antonio Baca y Pino?

A. Yes, sir.

Q. Was he ever present in any campaign in which you fought?

A. Not in my time. He was very old already.

Cross-examination by Mr. REYNOLDS:

Q. You say you know where the Ojo de la Jara is?

A. Yes, sir.

Q. You first knew it when the survey was made—about 1873—didn't you?

A. In the year '62.

Q. It is over in the Navajo country, isn't it?

A. Yes; it is west from the place where I now live.

Q. Isn't it in the Navajo country?

A. It is in that country.

Q. Is the Navajo country west of the Bear mountains?

A. To the west and north.

Q. Were you ever west of the Bear mountains until within the last few years?

A. Yes, sir; I went as far as the Camino Monte.

Q. Where is that?

A. On the north and west.

125 Q. Do you know where the town of Santa Rita is?

A. Yes, sir.

Q. Do you know where the Rio Salado is?

A. Probably it is the Rio Agua Salado.

Q. Where is it?

A. That place lies on the west of the Rio Grande; it empties into the Rio Grande.

Q. Do you know what that Arroyo Ariveche was known by before that man was killed there?

A. No, sir; I knew it by the name of Cañada Ariveche since the year '58. I don't know what it was before.

Q. You know it got its name from the man who was killed there by the Indians?

A. That is what my father stated to me when I was herding the sheep.

Q. And you don't know what it was known by before that man was killed there?

A. No, sir.

Q. Did you ever go around and over that cañada?

A. I did not go over the whole cañada. I was herding sheep there and my father stated to me that they called the place Cañada Ariveche, but I did not know the place as far as the spring.

Q. Then you never went to the spring?

A. No, sir; and I don't even know it now.

126 Q. How long since you went there?

A. '58. I have been several times there, but that is the first.

Q. When were you last there?

A. I have been there several times, and I have been there frequently after the Indians, and every time I go to Santa Rita I see the place.

Q. Do you know how long the cañada is?

A. I have not seen its length, because it lies from west to east.

Q. So when you were there you only saw a part of it?

A. Yes; the lower part of it.

Q. When was the first time you knew the La Jara spring?

A. In 1862.

Q. How did you happen to know it then?

A. At that time they killed a common herder at Polvareda, and we went out in pursuit of the Indians as far as the Cañada Mosa, and a company of settlers came up with us, and from that place we turned back because the Indians had destroyed our camp, and the soldiers had already started before us to go back, and we started back, and a person by the name of Pedro Garcia told us that that place was the Ojo de la Jara, and that's how I knew the spring. There were only about eleven persons in the party left.

Q. And that's the first time you ever knew of the La Jara spring?

A. Yes.

127 Q. That country was full of Indians, wasn't it, when you were a boy?

A. They were living far, but almost every night they were wont to steal out cattle, and we would go out in pursuit of them.

Q. Were not you compelled to stay near the river on account of the Indians?

A. We always lived at the river together, in order that we would go together, at Rito, and in going out in pursuit of the Indians with the justice of the peace and with the sheriff, and sometimes we would go in our own interest and sometime in the interest of others.

Q. Were there not settlements on the Arroyo Ariveche and Arroyo San Lorenzo?

A. No settlements and no ranches at that time.

Q. Do you know or remember when the first survey was made of that grant?

A. I do not know anything.

Redirect examination.

By Mr. KNAEBEL:

Q. Do you know the Ojo del Navajo spring?

A. I do not know where that place is.

Q. Some miles north of the Ojo de la Jara spring was a Navajo camp—

Mr. REYNOLDS: Objected to as leading and incompetent.

Mr. KNAEBEL: Very well. Counsel for plaintiff will substitute the map introduced by the Government and excuse the witness from further testifying on that point.

128

Witness excused.

NEPOMOCENO ARAGON, sworn as a witness on behalf of plaintiff, testified, in Spanish, as follows:

Examination by Mr. KNAEBEL:

Q. What is your name, age, residence, and occupation?

A. Nepomocemo Aragon; I live at Polvareda; my occupation is farmer; I do not know how old I am.

Q. What relation are you to the witness Don Luciano Chaves?

A. He is my nephew.

Q. How long have you lived at Polvareda?

A. I have lived there since the year '57.

Q. From what place did you move into Polvareda?

A. I moved from Cebolleta.

Q. What county?

A. Valencia.

Q. Do you know the Antonio Chaves or Alamillo grant?

A. I knew it.

Q. In what direction is Cebolleta, where you lived in your younger days, from the Antonio Chaves grant?

A. It is to the north.

Q. Did you know Anastacio Garcia in his lifetime?

A. Yes, sir.

Q. Do you know what was reputed in the neighborhood of
129 that grant to be its western boundary?

A. I know it from what was stated, but not from having been there at any time.

Q. You know what the common speech of the people was on that subject in the neighborhood?

A. I do.

Q. From what limit was it reputed?

A. They said that it was to the La Jara spring, which is referred to.

Q. How long have you known that spring?

A. I knew it in the year 1862; it is northwest from the Bear mountains.

Q. Do you know the Arroyo la Jara, west of the spring?

A. Yes, sir.

Q. State whether or not there are many willows growing at the La Jara you refer to?

A. When I first knew the spring, there were a great many willows growing there—there were many.

Q. Describe how many, the extent of ground covered, and the kind of willows. Were they large willows or small?

A. I do not know exactly how many there were; they were large and small.

Q. Do you know the Arroyo Ariveche?

A. Yes, sir.

130 Q. Do you know the spring in the arroyo that is today called the Ariveche spring?

A. Yes, sir.

Q. Is that spring situated on the bottom of the arroyo or on the upper side?

A. Formerly it was above the arroyo, but now it is at the bottom of the arroyo.

Q. Describe that spring.

A. When I first knew it — was a small spring there, in the arroyo; the arroyo was formed afterwards by the flows.

Q. What do you mean by the arroyo?

A. The small arroyo coming into the cañada, and at its head the arroyo takes the form of the flows, and at the lower part the arroyo spreads.

Q. When you first knew the spring what was its appearance?

A. It was a small spring.

Q. Have you ever known that spring to be called by any name except Ariveche?

A. No, sir.

Q. What was the name of the cañada?

A. Cañada Ariveche.

Q. Do you know why it was called Cañada Ariveche?

A. I have heard it stated that a man by the name of Ariveche herded sheep there.

131 Q. Was it the spring or the cañada that was called Araveche?

A. The cañada.

Q. Do you know a tree or bush called by the name of palo blanco?

A. Yes, sir.

Q. Are there any of those bushes growing near the spring called Ariveche?

A. Yes, sir.

Q. Are there any willows growing there?

A. No, sir; I have not seen any.

Q. And you have known that spring in the Cañada Araveche since 1857, have you?

A. I knew it in '57 or '58, because probably he did not go there same year when I knew it.

Q. Were there any willows growing there at that time?

A. There were none.

Q. Did you ever see any there in your lifetime?

A. No.

Q. You are well acquainted with the Cañada Araveche?

A. I know it from the spring to its mouth.

Q. How long is the Cañada Araveche?

A. That, after the place where the Cañada Salado, as it is called, empties into this Araveche, it may be four miles.

Q. How far west does this cañada run from where the little spring is?

132 A. It does not run to the west, it is plain.

Q. Well, in what direction does the cañada run?

A. It runs to the east.

Q. Did you also go on Indian campaigns in that country?

A. I did.

Q. Did you go out with witness Pablo Padilla?

A. Yes, sir.

Q. Pablo Sanchez also?

A. Yes, sir.

Q. Jose Pablo Pino ever go out with you?

A. No, sir.

Q. Explain what was the flow or capacity of that spring when you first knew it—the spring in the Cañada Araveche; run water enough for drinking purposes?

A. The quantity of water was very small; to get a drink had to dig with a stick.

Cross-examination by Mr. REYNOLDS:

Q. You said you know the Ojo de la Jara, west of the Bear mountains, since 1862; for the first time?

A. Yes, sir.

Q. The way you happened to go to it you were out there after Indians, were you not?

A. Yes, sir.

Q. Way over in the Navajo country there?

133 A. Yes, sir.

Q. Do you know how the Cañada Araveche got its name?

A. Yes; I know it.

Q. How?

A. Because a man by the name of Araveche herded sheep there.

Q. Was there any other water in that country except in that cañada?

A. There is none.

Q. Did you ever herd sheep there too?

A. No, sir.

Q. Do you know where La Jinza is?

A. Yes, sir.

Q. Was that ever known by any other name?

A. No, sir.

Q. Did you ever hear people in that country say that Araveche was known by any other name prior to that man being killed?

A. I do not know.

Q. Do you know whether the cañada ever had any other name or not?

A. I do not know.

Q. You never heard anybody say that it had a name prior to that man being killed there?

A. I have never heard.

134 Q. How long since you have been to the Araveche spring?

A. I think I was there about year before last.

Q. What is the condition of it with reference to growth of bushes around it?

A. There are none.

Q. Are there any willows there now?

A. None.

Q. When were you at the Ojo, west of the Bear mountains, last?

A. I was there about four years ago.

Q. What were you doing there?

A. Herding there. Man lives there, and I went there with his flocks.

Q. Do you remember when this grant was surveyed?

A. I do not remember.

Q. There are no growth of bushes around the Araveche spring and no willow trees, are there?

A. There are a certain class of trees called palo blanco near it.

Q. How many?

A. There are some of them—I did not count them. There are some clusters.

Q. You say you were there how long ago?

A. Year before last.

Q. At the time you were there, all around the spring isn't there

135 a close growth of brush at the mouth and extending all around for over an acre?

A. I did not see it.

Q. Were there ever any willows around that Araveche spring, thick growth of them, five years ago—growth of willows around the spring and brush on the outside of them?

A. No; at the Ojo de la Jara, there is only palo blanco at that place; there is no cedar growth.

Q. When was the first time you saw the place at Araveche?

A. In '56 or '57.

Q. Did you find anything there then?

A. I found water.

Q. Did you find any brush?

A. No.

Q. It was barren then?

A. I did not see any of those at any time. There was palo blanco.

Q. Do you know Jose Antonio Baca y Pino?

A. Yes, sir.

Q. How long have you known him?

A. From the time I came to the place, about '56 or '57.

Q. Did you ever go with him on any Indian expeditions out as far as the Araveche spring?

A. No, sir.

Q. Do you know whether he ever went out on expeditions or not?

A. I did not see him.

136 Q. He was a prominent man in the community, was he not?

A. He was.

Q. An officer, wasn't he?

A. They said so.

Q. Did you ever know Cayetano Tafoya?

A. Yes, sir.

Q. How long have you known him?

A. From the time I have been living at Polvareda.

Q. Did you ever go on expeditions with him?

A. Yes, sir.

Q. Did you go out as far as the Araveche with him?

A. I did not go to that place, but I went out with him.

Q. Did you ever go with him over to the Ojo de la Jara, over the Bear mountains?

A. I do not think so.

Q. Is that spring of Araveche down at the bottom of the cañada or up on the edge of it?

A. It is at the bottom of the arroyo.

Redirect examination by Mr. KNAEBEL:

Q. Does the water of that spring trickle down the sides of the arroyo to the bottom?

A. No; it is at the bottom now. There is a small hole there.

Q. Made by man?

A. Yes; an American man was fixing it.

137 Q. When you first knew it, was there any hole there or was it a little spring trickling down?

A. There was no hole then. Yes; it fell down.

Q. You were asked about the Navajo country. Do you know any Navajo spring northwest of the Ojo de la Jara?

A. I know several springs.

Q. Do you know of any Navajo camp-ground northwest of the Ojo de la Jara?

A. Yes; they are living there now.

Q. Did the Navajos get in by way of the Ojo de la Jara to make invasions?

A. They would go out that way, but I don't know the way they would come in.

Q. You spoke of the reputation of Jose Antonio Baca. Do you know anything about the reputation of Cayetano Tafoya in the community in which he lives?

A. I know him to be a man who has been living there all the time I have been there.

Q. Before the hole was made in the Cañada Araveche, what was the quantity of water that trickled down at that spring?

A. A very small quantity of it.

Q. Was it of any use for watering cattle and sheep in its natural condition?

A. No, sir.

Recross-examination by Mr. REYNOLDS:

138 Q. You say the Navajo camp was at the Navajo spring? Were there any Indians camped there then that are camping there now?

A. It is probably at the Ojo Alouzo. I do not know what the Navajo spring is.

Witness excused.

PABLO SANCHEZ, sworn as a witness, testified on behalf of the plaintiff, in Spanish, as follows:

Direct examination by Mr. KNAEBEL:

Q. State your name, age, residence, and occupation.

A. My name is Pablo Sanchez. I live at Polvareda. I am fifty-five years old, and am a farmer.

Q. How long have you lived at Polvareda?

A. I have lived there since the year '51.

Q. Do you know the Antonio Chaves grant, commonly called the Alamillo grant?

A. I know the land.

Q. You know the land, you don't know the papers?

A. Sometimes I have seen the map. I have seen it probably three times.

Q. Do you know the land and claim of Anastacio Garcia as the Antonio Chaves grant?

A. Yes, sir.

Q. Do you know what the western limit of the Antonio Chaves grant was reputed to be, according to the common repute of the people in that community?

139 A. I do.

Q. What was that?

A. It was from the Ojo de la Jara in the direction to the Pueblo spring.

Q. Did you know Anastacio Garcia?

A. Yes, sir.

Q. Do you know that he pastured live stock on this grant?

A. I do.

Q. Do you know what he claimed as the western limit?

A. Yes, sir.

Q. What?

A. I don't know exactly; the tract of Alamillo, as it was called.

Q. How often have you been at the La Jara spring, at the western limit of the Antonio Chaves grant?

A. I have been there very many times; I don't know the number of times.

Q. Where is that spring situated with reference to the Bear mountains?

A. It is to the north, where the Cerro del Oso begins.

Q. Do you know the La Jara arroyo, west of the Ojo?

A. Yes, sir.

Q. Do you know the cerro or mountain of La Jara?

A. Yes, sir.

Q. State what kind of vegetation was growing at the Ojo de la Jara springs at the time you first saw that spring.

A. There were some willows, and there were some oak trees, 140 some cedar trees, and there was a wood there—a grove.

Q. State whether or not there were many willows?

A. There were many.

Q. How large were they when you first saw the spring?

A. At that time, when I first knew it, there were large willows there, very thick, and there were some small ones on the arroyo.

Q. How thick were some of the willows?

A. They were thick also, and they were high, and there were also some palo blanco in the cañada.

Q. Were they as thick as your waist?

A. They were this size (indicating with hands about 8 to 10 inches apart).

Q. When did you see the La Jara spring the last time?

A. A year, more or less.

Q. Are there as many willows there now as when you first knew the spring?

A. No.

Q. What has become of the willows?

A. Stock and cattle have destroyed them.

Q. Do you know the Cañada Araveche?

A. Yes, sir.

Q. Do you know the little spring in that cañada that some people call the Ojo del Araveche?

A. Yes, sir.

141 Q. When did you first hear of the Cañada Araveche?

A. I knew it about the year '54 or '55; since that time I have known it.

Q. At that time did that little spring have any name?

A. No; only the cañada was named Araveche.

Q. Describe that spring as it appeared when you first knew it in '54 or '55.

A. It is a cañada, coming down from the plain, that is called zore plain or pra-rie. The sides of the cañada come down to the bluff, where there are some small growths of oak trees, and on the side of that bluff of oak trees is a small hill, and the spring was at the top of this hill.

Q. Describe the quantity of water in the spring at that time.

A. The quantity of water was very small. The spring was situated on the side of the hill, about thirty feet from the bottom of the arroyo, and at the place where it was situated there was a cave, and the amount of water that rushed from it was very small—only enough to soak the ground.

Q. Was there water enough there to keep one's burro from starving?

A. Yes; at times—sometimes—because there was a tank.

Q. Describe the kind of vegetable growth in that cañada and in the vicinity of that spring from the time you first knew it.

A. There are some trees—palo blanco—right near the spring and *and* some brush called *called* lemito, and there were some cedar trees.

142 Q. Were there any willows there at all?

A. No, sir.

Q. Have you ever seen any willows growing there?

A. No, sir; there was a very pretty growth of palo blanco and lemito.

Q. And were they tall trees?

A. This tree that we call palo blanco—there are large quantities of it.

Q. State what, if any, occasion you have had to do any work out and around this spring of Araveche.

A. Yes; I worked there for a short time.

Q. Were you never in occupation of it?

A. I do not remember whether it was in 1886 or '87.

Q. Well, did you sell your crops and possession of that spring to anybody?

A. Yes.

Q. To whom and when?

A. I sold it to a man named Tinquoley

Q. In what year?

A. In the same year. I was only there seven or eight months when I sold it.

Q. Did you live at that spring seven or eight months?

A. Yes; I was there with some cattle that I had.

Q. Did you improve that spring—make any hole for the water?

A. Yes, sir.

143 Q. Did you see the spring quite frequently?

A. Yes, sir. (And he says:) There was a great flood in the year 1883 that dug the arroyo out, and afterwards the spring gushed forth in the arroyo where I now say.

Q. The same place?

A. No; below.

Q. How long did you occupy this spring?

A. 8 months, more or less.

Q. Did you see the spring for about eight months, more or less, every day?

A. Yes, sir.

Q. Did you live there?

A. Yes; I lived there at times.

Q. And you were well acquainted with the spring and the country about it?

A. Yes, sir.

Q. And you are positive there were no willows there at all?

A. There were none.

Q. Did you ever hear, during all the time you have lived in the county of Socorro, that this spring in the Cañada Araveche had been called La Jara?

Mr. REYNOLDS: I object to the form of the question.

Mr. KNAEBEL: Question withdrawn.

Q. Do you know Jose Antonio Baca y Pino?

A. I do.

144 Q. Do you know Cayetano Tafoya?

A. Yes, sir.

Q. Last spring did you have any conversation with Jose Antonio Baca y Pino and Cayetano Tafoya about the name of that spring?

A. Yes, sir.

Q. Before that conversation by what name had you known the Cañada Araveche?

A. Cañada Araveche.

Q. Before that conversation did the cañada or the spring in it have any other name, to your knowledge?

A. No—at least, I did not hear it.

Q. In that conversation that you had last spring did you hear any other name mentioned in respect to that spring in the Arroyo Araveche—in the conversation between you and Mr. Baca?

A. No; the conversation with Jose Antonio Baca, who was going down with Mr. Brown; he asked me about whether I knew where the Ojo de la Cobre was. I said, No, and then Mr. Baca asked me again, "Why, don't you know the Ojo de la Cobre?" And I thought to myself—a son of Mr. Baca's, who was standing by, and

said, "Why, don't you know it? It is over near your place." And then I said, Probably you have reference to the Cañoncito de la Cobre; that is about a mile and a half from Polvareda. That is all the conversation I had with Mr. Baca—Juan Antonio.

Q. What is the name of that son of Jose Antonio Baca?

A. I do not know; I know him well by sight, but I don't know his name.

145 Q. Does he run sheep on the Antonio Chaves grant?

A. I do not know how it came about that he happened to be there. Mr. Baca and this gentleman (indicating Mr. Brown, sitting near) were coming in a buggy, and they met at the place.

Q. In that conversation was any allusion made to the Araveche spring?

A. No.

Q. When was that conversation?

A. I do not remember the month, but it was in the summer time; I don't know; in May, June, or July.

Q. Did you have any conversation with Cayetano Tafoya about that Cañada Araveche?

A. Yes, sir.

Q. What was it?

A. When we were summoned here to Santa Fé I was coming down and we met, and he asked me if I knew a place that is called Araveche spring, and I said, No; and he stated to me that the place that we now call Araveche was formerly called Ojo de la Jara, and then I said to him, I have not known it by that name since I have been acquainted with the spring, until you have said so. That was the conversation that we had together, and then we came away.

Q. Was anything said by him as to testifying—as to your testifying?

A. No; that was the only thing that happened at that place while we stayed there.

146 Q. How many times had he asked you if it had not been called La Jara before?

A. It was probably two or three times. He stated to me that they always called it before by the name of La Jara spring.

Q. Did he say anything at that time about lying?

A. No; he did not state to me that I was lying or that he was going to lie, but it seemed so strange that I had not known this before.

Q. He asked you three times about it?

A. About two or three times.

Q. Did he ask you if you had known it by any other name?

A. Yes; he was the one who asked me the question first.

Cross-examination by Mr. REYNOLDS:

Q. Didn't Mr. Brown ask you the question first?

A. He first. Mr. Brown and Jose Antonio Baca asked me about the Ojo de la Cobre.

Q. Didn't Mr. Brown ask you if you hadn't known the Ojo de la

Araveche, the spring in the Cañada Araveche, by the name of the La Jara?

A. No, sir; he did not.

Q. Didn't stop you and tell you they were out there for that purpose, when Mr. Baca was in the buggy with him?

A. Yes; about the Cobre spring.

Q. Didn't ask you at the time you met him, when he had Mr. Baca in the buggy with him, if you had known the Araveche spring in the early days as La Jara?

A. No.

Q. He never did ask you, did he?

A. No, if he asked me I did not hear. I heard about the Ojo la Cobre.

Q. Where is your ranch?

A. I have no ranch there any more.

Q. Where is your ranch now?

A. I have a ranch at Santa Rita now.

Q. Where do you live?

A. I live at Polvareda.

Q. When you were down at Araveche and had your sheep ranch there, you didn't ask permission of anybody, did you?

A. No.

Q. You knew you weren't on anybody's ground?

Mr. KNAEBEL: Objected to as incompetent; not proper cross-examination.

By the COURT: Admitted subject to the objection.

A. I knew it then, because there were some rumors started, that land was Government land.

Q. Do you know where the Bear springs are?

A. Yes, sir.

Q. What direction are they from Santa Rita?

A. Southwest.

Q. You say that Cayetano Tafoya asked you four or five times if you hadn't known the Araveche spring by the name of La Jara?

Mr. KNAEBEL: Object to the question as misleading.
No ruling.

A. Yes; he asked me that.

Q. He asked you four or five times, didn't he?

A. About three or two times.

Q. Or five?

A. The fact is, that it was about three times.

Q. You thought it was very strange that he should ask you three times, didn't you?

A. Yes, sir; because I never heard it called by that name.

Q. He didn't offer you anything to admit it, did he?

A. No, sir.

Q. Didn't get mad at you, did he?

A. No, sir.

Q. Didn't seem very much hurt about it, did he?

A. No, sir; but I thought in my mind it was strange.

Q. When was the first time that you knew the spring called the Ojo de la Jara?

A. In '57 or '58.

Q. When was the first time you knew this Ojo de la Jara to be the boundary of a grant?

A. From the year '51 to '52. I heard it mentioned about the year '51; I knew it from the grant at the beginning of '52, the place as it is called, Alamillo.

Q. Where is this place Alamillo?

149 A. It is above Polvareda, where the Alamillo is situated, as belonging to Antonio Chaves and also Anastacio Garcia, and one by the name of Vicente Chaves.

Q. Do you know where the Pueblo springs are?

A. There are several Pueblos.

Q. The Pueblo springs.

A. I do not know which Pueblo; I do not know which springs.

Q. The Pueblo springs that you mentioned in your examination-in-chief?

A. The Ojo de la Pueblo is situated near the south end of the mesa, as they call it.

Q. Well, it lies south of Santa Rita, as they call it?

A. Yes, sir.

Witness excused.

JESUS BACA, sworn as a witness on behalf of plaintiff, testified, in Spanish, as follows:

Examination by Mr. KNAEBEL:

Q. What is your name?

A. Jesus Baca.

Q. Where do you live?

A. I live at Sabinal.

Q. How old are you?

A. I will be seventy-five years on the fifth of January next.

Q. Did you know Antonio Chaves, grantee of the Alamillo grant?

A. Yes; he was my master.

150 Q. Is Antonio Chaves dead or alive?

A. He is dead.

Q. What was the name of his wife?

A. Monica Pino.

Q. Where did Antonio Chaves live?

A. At Belen. At the place that is called Las Trampas.

Q. Was Antonio Chaves a poor man or a rich man?

A. He was a very rich man.

Q. What class of live stock did he possess when you were a boy?

A. He had sheep, cattle, horses, and hogs.

Q. How many hogs did he have?

A. At the time when I went to work for him he had sixteen.

Q. How many mares did he have?

A. He had forty unbroken mares they brought in from Sonora, besides his sheep-horses.

Q. How many cattle did he have?

A. One thousand.

Q. How many sheep did he have?

A. Three thousand.

Q. Was he a man of good reputation in that community?

A. Yes, sir.

Q. Who was chief herdsman—caporal—of the sheep of Antonio Chaves?

A. I took care of his sheep for one year; I was chief herder for him for seven years; I was caporal.

151 Q. How many men did he employ to take care of his sheep and his cattle?

A. Seven, with myself, for the sheep and seven for the cattle—fourteen in all.

Q. Were these men furnished with arms or not—these men who were in charge of his live stock?

A. They were armed, because the Navajos were making a great deal of harm.

Q. How many years were you in the employ of Antonio Chaves?

A. Eight years and nine months.

Q. During the time you were caporal or chief herdsman, how far west did you take his flocks to herd and water them?

A. I brought them over several places, and then when I became caporal he showed me the boundaries of the ranch of Alamillo, for which he said he had a grant from the Government.

Q. Did he show you the Ojo de la Jara?

Mr. REYNOLDS: I object.

Q. Where is the Ojo de la Jara that you have referred to with reference to the Bear mountains?

A. It is on the north of the Cerro del Oso. I know all the boundaries of the land from this man.

Q. Where is the Arroyo de la Jara?

A. The arroyo and spring are about two miles and a half from Santa Rita, from the north to the west from Santa Rita.

Q. What kind of vegetable growth was about the Ojo de
152 la Jara when you first knew that spring?

A. When I knew it the first time I saw a great deal of willow there—very thick willows—and some rushes.

Q. State whether or not the willows grew in great quantity.

Q. There were a great many of them.

Q. Over what extent of country did the willows grow around that spring?

A. About three or four hundred yards.

Q. How high were those willows?

A. The willows were about three yards high, more or less.

Q. Do you know a cañada called today the Cañada Araveche?

A. Yes; for twenty years passed I have known the Cañada Araveche, so called for a man by that name who was killed there.

Q. About how long ago was that man Araveche killed in that cañada?

A. About twenty-two years ago.

Q. Was he a Mexican or an Apache?

A. He was an Apache.

Q. Before the death of that Apache did that cañada or the little spring in it have any name at all?

A. We, the shepherd boys, called the spring, which was inside of the Antonio Chaves grant, the Chupidero.

Q. Why did the boys call that spring the Chupidero?

A. Because the quantity of water taken from it was very small, and was only sufficient to be taken and put in barrels and not sufficient to water the burros.

153 Q. Was that spring ever in your time called La Jara?

A. Never.

Q. Were there any willows growing around that Chupidero spring in that cañada?

A. There never have been any; neither will there be any while there is a world.

Q. Is the land there adapted to the growth of them?

A. The willows could not grow there in those times when it would rain, much less grow there now when it is so dry.

Q. What kind of shrubbery did grow there?

A. Some palo blanco, some oak trees, sage, and some willow trees.

Q. Is palo blanco a thorny shrub?

A. It is a thorny tree, and we call it palo blanco because the surface is white.

Q. You were in the employ of Antonio Chaves eight years and nine months caring for his flocks. How long after you left the employ of Antonio Chaves was this Apache, Araveche, killed?

A. I have stated -while ago was twenty-five years after.

Q. State whether or not you and your fellow-herders defended that grant against the Indians.

A. Against the Indians and against the Spanish. I had orders as caporal to drive from it all kinds of stock belonging to other parties, and when the Indians came there, as a matter of course, we had to drive them out—defend our homes against them.

154 Cross-examination by Mr. REYNOLDS:

Q. You say this man Araveche was killed about twenty-two years ago?

A. They killed him at the Cañada Araveche, near by the spring.

Q. There is a spring over there, isn't there?

A. There is a spring at that place, the Chupidero.

Q. You used to herd sheep in the early days out in that country, didn't you?

A. Always in the grant of Don Antonio.

Q. You used to herd the sheep out in the Araveche cañada, didn't you?

A. In those days *they* were no Araveche; it was the cañada of Don Antonio, and he had a right there.

Q. What did he call it before then?

A. The cañada.

Q. That was the only cañada on the grant, was it?

A. Yes; he gave it the name of Araveche after he was speared with arrows.

Q. There is no other cañada on the grant?

A. There are very many of them.

Q. They didn't have any names, did they?

A. They have various names.

Q. Will you give them?

A. Yes; Ojo de la Jara first, Rancho del Chado, Rancho de la Trejo, Ojo del Oso, La Cañada del Agua, Padero Babijuilla.

155 I am stating the cañadas that had water.

Q. State them all.

A. I *can't* give the names of them that have water now, though I cannot give the names of the cañadas in the mountains, because there are many, unless I would take a notary with me to state them down.

Q. This cañada was as well defined as some of the others, wasn't it?

A. It was a water can; they called it Chupidero. In those times it did not have the name of Araveche. We gave it that name—I myself.

Q. In what year?

A. I can't recollect the years because I am not very proficient in mathematics—from that time when I knew it until the time I am stating now.

Q. When was that?

A. I have been stating that time; I commenced herding sheep when I was fifteen years old, and it is sixty years ago that I knew it.

Q. Sixty years ago did you herd any sheep out as far as the La Jinza spring?

A. I pastured La Jinza; I pastured over all of the tract of Don Antonio; I pastured as far as Las Cruces, and on the river side I pastured as far as the Rio Grande, and to Peña Blanca, and I pastured as far as the Rio Puerco.

Q. You working at that time for Chaves, weren't you?

156 A. I have not worked for any one else.

Q. And you pastured all the way from the Cruces to the Valles?

A. Yes, for several years.

Q. And from the Rio Puerco to the Rio Grande?

A. Yes, sir; and also on this side of the river.

Q. Did you ever know of a settlement being made at Araveche?

A. At that time there was no settlement or ranch of any kind on that place that they now call Araveche on account of that man being killed there, because I never allowed them to come upon it and pasture on it.

Q. Were you there all the time?

A. I have said that I was not there all the time; I was with the sheep, and I have stated the land over which I have pastured.

Q. Your cor-als were down next to the Rio Grande?

A. The cor-als were at the Alamillo or grant of Don Antonio Chaves.

Q. The Alamillo is off in the northeast corner, is it not?

A. (No reply.)

Q. Is it down on the river?

A. Yes, sir.

Q. You say there are no willows at the Araveche now?

A. I have not been upon it recently. I said there would be no willows on it at any time; I can see that.

Q. You are certain there are none there now?

A. I am certain there is none would grow there unless
157 they were planted.

Q. There is nothing but a little spring there now?

A. I have not been down upon it now; I have not been by the place in five years.

Q. You don't know how big that spring is now?

A. I do not know; I do not know what the condition of the place may be, but the condition left by the flocks was very bad.

Q. Do you know what the southwest corner of this grant is?

(INTERPRETER: He says he does not understand what the "south-west corner" is.)

Q. Do you know where the Bear springs are?

A. Yes, sir; if they put a blind over my eyes I would go straight to the place; my horse himself would take me to the place.

Q. Is there a great deal of water there?

A. They have taken a good deal of water out for use.

Q. Any willows there in the early days?

A. No; there were some oak trees there.

Q. Do you know where the Pueblo springs are?

A. Yes, sir; they are right on the road. I can go with great accuracy to these springs.

Q. On this grant, are they?

A. The grant is from the Ojo de la Jara to the Ojo de la Pueblo to the south.

Q. Then the south boundary of the grant is the Pueblo spring, is it?

158 A. Yes, sir.

Q. Do you know where Magdalena City is?

A. Yes, sir.

Q. The line goes pretty near down to Magdalena City, doesn't it?

A. No; only to the Pueblo spring.

Witness excused.

And the further hearing of this cause was adjourned.

Now, on this day, both parties being present by counsel, the fur-

ther hearing of this cause was proceeded with on behalf of the plaintiff.

Mr. KNAEBEL: I offer in evidence the field-notes and plat of the survey by the Government of the Antonio Chaves grant.

Mr. REYNOLDS: The Government objects, it being incompetent and immaterial and having no tendency to bind the Government in any way.

(The said field-notes so introduced are annexed as Plaintiff's Ex. No. 5.)

MARTIN B. HAYS, introduced as a witness in his own behalf, testified as follows:

Direct examination by Mr. KNAEBEL:

Q. You are the plaintiff in this case?

A. I am.

159 Q. Did Anastacio Garcia ever in your presence or hearing or to our knowledge make any statement or suggestion to the effect that the boundary of the Antonio Chaves grant claimed by him extended on the west to a point or spring called the Araveche or any other spring in that community?

A. No, sir.

Q. Did you ever have anything to do, in suggestions, directions, or otherwise, about the location of or with reference to the fixing or location of the Oje de la Jara as the western point of the said grant?

A. I did not; I never while there, either by words or otherwise, suggested to them where it was.

Q. Do you recollect the fact of your meeting Anastacio Garcia and other Mexicans in Polvareda, at or in the vicinity of the house of Luciano Chaves, seventeen or eighteen years ago?

A. I can't tell you exactly in years; I think, if I remember correctly, it was in '78; I remember the time; it was at the resurvey — was ordered from Washington, and I met on the river front a corps of surveyors. I went with some men down to Polvareda, and I called the surveyors out and we established the southeast corner—Pablo Garcia's ranch, as reputed to join there; that and the Antonio Chaves join there on the south, and the first survey had included these people inside of the boundary line of the Alamillo grant, but

160 I desired to be friendly with these people, they having cultivated fields there and grape orchards. I preferred taking off a strip there and go outside of these possessions than to have any trouble about their interests, so he calls a meeting of the men there, and I was there to meet them—I suppose twenty were there; I forget who was with me, but if I remember correctly Joe Shaw was there—

Q. He is now dead?

A. Yes, sir; and Shaw explained to them that there was going to be a resurvey of the Alamillo grant, and that they were not to be included in the Antonio Chaves grant, but that we wanted to agree upon where the line should be, — as to settle that question forever.

Q. Was there any discussion about the Ojo de la Jara spring?

A. There was nothing said about it.

Q. Was there anything said about the line at the spring?

A. I heard none.

Q. With whom did you first enter into negotiations for the purchase of the Alamillo grant?

A. Anastacio Garcia and Rafael Luna.

Q. Did you meet Anastacio Garcia on the grant on that occasion?

A. Negotiations were made at Los Luna's; him and his brother was together, and Mr. J. Francisco Chaves was interpreter for us.

Q. After that did you meet Anastacio Garcia at his house?

A. I was there very frequently—I was there and stayed days.

Q. Who was your interpreter on any of those occasions?

161 A. As it would happen, I had nobody with me as interpreter. Mr. George Way, who was doing some surveying for me, acting as interpreter very often; I had some men trying to open some copper about three miles from the river; he talked Spanish, but there wasn't very much talking to do.

Q. Is George Way living or dead?

A. Last time I heard of him he was living at and owned part of a mining camp.

Q. State — while at the house of Anastacio Garcia or while on the grant reference was made by him to the locality of the Ojo de la Jara, the western call of the grant—whether he made any statement to you or in your presence on the subject.

A. I remember asking him where it was, and how far it was. "*Poniente*," he said, and pointed to the west, to right where it is located, in the Bear mountains.

Q. What else did he say about going there?

A. He said it was a day's ride on a mule. I tried to get him down to miles, but he said he didn't know anything about miles, but it was a day's ride on a mule.

Q. State whether or not you have been in the vicinity of the Ojo de la Jara.

A. Yes, sir; I have passed there many times.

Q. Describe the appearance of the Ojo de la Jara; explain the growth thereabouts.

A. I know it was quite a good spring, and the growth of willows I found quite marked. I should say there are as much as two
162 or three acres, covering over, perhaps, a city block, and right above the spring appears the Bear mountains—a good range for stock and sheep; grass grows plentifully and the trees furnish shelter, as the growth of trees above there is quite marked.

Q. In what year did you first go over that grant?

A. In '73.

Q. Did you become connected with it in any way, as early as that?

A. Papers here in the office will show. I think it was in May, '73, or May, '74.

Q. I ask you if you became connected with it at that time?

A. Yes, sir.

Q. Was the grant surveyed at that time?

A. No, sir.

Q. Was the Socorro either?

A. No, sir; no appropriation had been made for it.

Q. How many times have you been on that grant?

A. I suppose twenty or twenty-five times.

Q. What did the people in the vicinity say as to the boundaries of that grant?

A. Now?

Q. At any time.

A. I had conversations with the people down on the river—Mr. Vigil, for one—and a prominent merchant at Socorro, Antonio Abeytia.

163 Q. Did you talk with Judge Shaw?

A. Yes, sir.

Q. He is dead now?

A. Yes; he had a Mexican wife. I remember—

Q. State whether you frequently heard as a common subject of conversation, as to this Ojo de la Jara and where it was.

A. I talked with people frequently living on the river; there were very few people living west of the river—over a mile.

Q. Did you ever by conversation, rumor, or otherwise ever hear of any Ojo de la Jara except the spring in Bear mountains?

A. No, sir; I never heard it even suggested by anybody. I remember well the people would frequently talk about others running their sheep on this grant, and they all knew about how far west the grant run.

Q. What did they say on that subject?

A. They said the grant took in Bear mountain.

Q. Describe the Arroyo de la Jinza, north of the Cañada Araveche.

A. I never heard of the latter. The La Jinza arroyo heads way up to the north of the Magdalena mountain and runs pretty nearly east — til you get down about the center of the grant—little east of center—and it there bears north and crosses the line and empties into the Salada.

Q. State whether or not in your preliminary examination of the grant you looked into the question of the springs that were on it with a view to ascertaining the springs and the amount of water that flowed from them.

164 A. I went to half a dozen or more springs, as that was a matter of great importance, to my mind, and I wanted to ascertain them and estimate their capacity.

Q. Did you ever see the spring called here the Araveche spring?

A. Never did.

Q. Did you ever at any time, until the evidence introduced by the Government in this case, hear it even intimated that the Ojo de la Jara was not where it was located by the surveyors of that grant? Did ever anybody, in conversation or otherwise, ever intimate such a fact?

A. No, sir; I never did.

Q. State whether or not there are any willows growing in that part of the grant—there around the La Jinza arroyo and south of that.

A. I have been up and down that arroyo perhaps eight or ten times and I don't remember of ever seeing any willows; there is no spring there. There is a little spring to the west of the Jinza arroyo, called the Carbon spring, but it has been dug up, I believe, by the stock.

Q. In the testimony given here reference was made to statements of others, made while somebody was sworn, at the house of this justice of peace, that you were trying to claim more land than Garcia intended to sell, or something to that effect—

Mr. REYNOLDS: I object to that question.

165 Q. (Continuing:) State fully and freely to the court all of your actions and efforts with reference to the surveying of the Antonio Chaves grant, and to any efforts by yourself to procure any land in that survey in excess of or as part of that in the survey now existing.

A. I will have to tell it in my own way. I first visited Mr. George Way, a deputy mineral surveyor, living at Salado, a man probably 58 or 60 years old, and I made a bargain with him to go with me, showing the grant out. I had a copy of the title papers with me, and I knew this man was familiar with this country and more likely to find any locations on the grant, as I had been frequently told there was some coal on this grant. Well, we went around by the Ojo de la Jara, around Bear mountain, the Ventana spring and the La Jinza spring, and all the different springs. At the Carrisa spring he pointed out to me this coal, and after that I got him to make a thorough examination of the grant, to estimate what there was in it. He said he couldn't state exactly, but that he thought it would pan out pretty handsomely. By that time I had made arrangements with the owners for it. It was estimated as containing two hundred and fifty to six hundred thousand acres. I applied for a survey, but there was no appropriation for a survey at that time, and I couldn't get the surveyor general to have one made. After that I went to Mr. Proudfit, surveyor general, and deposited the money with him—fifteen hundred dollars—and said,

166 Send for one of your deputies and let him go and make a survey. He said it would be an unofficial survey. I didn't care, said I, I would like to know whether there are fifty thousand or one hundred and fifty thousand acres there. He sent a man by the name of George H. Pradt, and he went down and run the survey. He run west to the Ojo de la Jara spring, and then run south to a point which would be the north boundary line of the Socorro grant, if that was now protracted. The western boundary line of the Alamillo grant is west of the Socorro grant about six miles, and the way we construed our title papers was that the north boundary of the Socorro should be our south boundary. After fixing the south boundary he went north to the Magdalena mountain—that is, we estimated the point on the river named in the title papers for

the north was the Magdalena mountain. This land in here (indicating with his hands) was then in the Antonio Chaves grant, and from this northeastern boundary line at the river he run to the Ojo de la Jara spring, thus closing up the survey.

Q. Tell what springs to the south they took in.

A. He took in the spring at the Magdalena called the Ojo del Pueblo, and the line is west of that spring, where the Government made its first survey, but afterwards I found they didn't go that far.

Q. That was after the Government had made an appropriation for an official survey?

A. Yes, sir.

Q. Then this was after the survey was made?

167 A. Certainly. The first one, I was not down there at all. General Atkinson's result was a good deal less than I expected. It included land that did not belong to the grant and left out land that did. I undertook to convince the surveyor general that the survey was wrong and that an examination of the title papers would conclusively show that the lines had not been run properly; that the way to make a survey, when three points are given, was to take the point here on the river first and then run to the Ojo de la Jara, and then due south to a point that would intersect with a line drawn from the other point named on the river. I tried to convince him, but he wouldn't see it that way, and so I entered a protest against that survey, and by the assistance of some friends in Washington I got another survey ordered. When I was informed by General Atkinson that another survey would be made I left for Alamillo station, and there met Mr. Sawyer, the man in the field, and then it was that we called out these people from Polvareda to establish that southeast corner at the river. We agreed upon that, and I left the surveyors there in the field and went over in Grant county, where I had some matters to attend to, and was not with them at all. They run their survey and didn't vary a particle from the first survey. The instructions, I suppose, from the surveyor general's office were the same. Now, in conclusion, Mr. George Way run us to the Ojo de la Jara spring, where it is now, and then Mr. Pradt run his survey to the same point—an unofficial survey at the time—and the Government making two surveys, and each time going to that same point. I did not
168 give any advice to them; they were directed entirely by the papers, and construed them and picked out their way for themselves, and so far as trying to get more land than the grant implies, I didn't ask the other people about it at all. I went by the title papers.

Q. Did you ever make any efforts with reference to the moving or the selection of a point as the Ojo de la Jara spring west of the spring that had been adopted by them?

A. Yes; I told the surveyor general that I was informed by Mr. George Way and others that there was quite a considerable spring west of this Ojo de la Jara that they established as the western boundary, and he said, Whether there were Ojo de la Jaras west of

A. It was in the possession of Mr. Hiram G. Bond, the mortgagee of the property.

Q. Did he tell you about Mr. Brown re-running the lines and re-monumenting the Government's survey, and then made him a map of it?

A. Yes; Mr. Brown followed the line indicated in the field-notes; he went along the old survey.

Cross-examination by Mr. REYNOLDS:

Q. You don't suppose, Mr. Hays, that copper and coal was the inducement that led Antonio Chaves to petition for this grant in 1825, do you?

A. I don't know what his motive was.

Q. Don't you suppose that a man applying for a grant in 1825 it was with a different motive than he would now?

A. I suppose, possibly, he would.

Q. Do you know the A——

A. Yes, sir.

Q. Where is it with reference to the La Jinza spring?

A. It is west from the Rio Grande river.

Q. Is it at the head of the San Lorenzo arroyo?

A. I would not say; it is west of the river about five and a half or six miles and southeast from the San Lorenzo spring.

Q. You were informed that that was a boundary there between the Socorro and the Alamillo or La Jinza grant?

A. I did not know that a boundary was there. In those days very few people knew anything about the boundaries of the
173 grant, outside of the parties interested, and you can see why.

Q. You never heard until now of the Cañada Araveche?

A. No, sir; never did.

Q. You say you have been to the La Jinza?

A. Yes, sir.

Q. What is that other spring called, near there?

A. The Carbon; but none of these springs have any established name outside of the San Lorenzo, La Jinza, Carrizo, and Ojo de la Jara.

Q. How far west of the Arroyo San Lorenzo is this Carbon spring?

A. It may be two miles. In most of these springs they have to dig down, make a hole, and let the water run in.

Q. Marshy, was it not, with wil-ows growing around, and that's why they called those springs outside of Bear spring Ojo de la Jara also?

A. I never saw any spring outside of the Ojo de la Jara that had any willows.

Re-examination by Mr. KNAEBEL:

Q. I want to know whether, outside of the coal and copper, the grant possessed any quantities that would lead Antonio Chaves to want to acquire it?

A. I guess only for grazing purposes.

Mr. REYNOLDS: I desire to enter a general objection to this testimony as incompetent and immaterial, as referring to matters which have taken place subsequent to the treaty of Guadalupe Hidalgo, and as having no tendency to establish the true boundaries.

By the COURT: Admitted subject to the objection.

Plaintiff read in evidence the foregoing deposition of Hiram G. Bond.

Plaintiff rests.

174 *For the Government—Rebuttal Testimony.*

L. M. BROWN, recalled for the defendant, testified as follows:

Examination by Mr. REYNOLDS:

Q. You are the same Mr. Brown that witness Pablo Sanchez testified he met in a buggy, are you not?

A. Yes, sir.

Q. Do you remember meeting him on the road, which he testified to, with Mr. Baca with you?

A. Yes, sir.

Q. Will you please state the conversation had between you?

Mr. KNAEBEL: I object to that question because no proper foundation has been laid for it.

By the COURT: Admitted subject to the objection.

A. I asked him if he knew the Ojo de Araveche and where it was. He said he did. I further asked him if he had ever heard it called La Jara. He said, No.

Q. I will get you to state whether you were in the employ of the United States looking up testimony in this case.

A. I was.

Q. Did you make any reference to the Ojo de la Cobre in speaking to Mr. Sanchez?

A. I never heard of that spring before.

No cross-examination.

Witness excused.

LUCIANO CHAVES, recalled on behalf of the United States, testified, in Spanish, as follows:

Examination by Mr. REYNOLDS:

Q. Do you know the Araveche spring situated on the Antonio Chaves grant?

175

A. Yes, sir.

Q. When did you first know it?

A. It was about the year '53, '54, or '55; I was a boy then.

Q. What were you doing there?

A. I was with my grandfather, lambing some sheep, in the month of April.

Q. What condition did you find it with reference to the growth around it? What kind, if any, growth did you find around the spring at that time?

Q. The Cañada Araveche is about two miles long to the place where it joins the Cañada de la Jinza, and from the place to the head of the cañada, where the spring is, it is very sandy. The cañada may be a thousand yards broad at some places and only a few yards in other places. There are some vega grass there in the vicinity of those springs and there are some willows and there are some oak trees and there are some palo blanco and tule. There are no willows there now except the stumps of them.

Q. What has become of the willows?

A. The cattle have destroyed them.

Q. Are there evidences of them there yet?

A. There are a good deal in the distance of three or four hundred yards on each side of the springs—shoots of them.

Q. I will get you to state whether or not they are beginning to grow again.

A. I do not know whether the cattle and sheep will let them grow.

Q. Did you ever hear of the Araveche known by any other name?

A. Yes, sir.

176 Q. What other name?

A. La Jarita or La Jara.

Q. Do you know the La Jinza also?

A. Yes, sir.

Q. I will get you to make a comparison as to the quantity of water in each; which had the most at the time when you first knew them?

A. At the time when I first went there, in the year '53 or '54, the quantity of water in the Araveche was about four times that of the La Jinza.

Q. How many sheep did you have there at the Araveche?

A. About two thousand sheep, more or less.

Q. Where were they watered?

A. The men would dig up the water and make a big tank and the water would run in, and there is the place where we would water the sheep.

Q. I will get you to state what is the condition of the spring the last time you saw it.

Q. About two weeks ago I saw it, and the spring was in a very bad condition. There is very little water at the upper part; there is a rock at the spring seventy or one hundred feet high, and at the bottom of the spring it is full of sand now. It seems to me that there is about three or four feet of sand in the spring.

Q. How far from where the Cañada Araveche joins the La Jinza is this rock?

A. About two miles, but not all of it is rock. For a distance of

177 about one mile the cañada is very wide—is about one mile wide—and from that place to the spring it is very narrow, and there are a great many quantities of rock on the sides.

Q. The growth of willows that you refer to, are they in the Cañada Araveche or the Cañada de la Jinza?

A. At the Cañada Araveche—some call it the Cañada Araveche and some call it the spring of Araveche—and that is the difference existing between us.

Cross-examination by Mr. KNAEBEL :

Q. What is the distance from the spring that you call Araveche spring to the La Jinza spring?

A. It is about three miles, more or less.

Witness excused.

This was all the testimony and case was submitted.

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PLAINTIFF'S EXHIBIT No. 3.

On this 4th day of October, 1877, before Meluciano Chaves, a juez de paz in and for the county of Socorro, Territory of New Mexico, personally appeared RUMALDO CHAVES, of lawful age, and who, having been by me first duly sworn, deposeth and saith in answer to the following interrogatories :

Question. State your name, age, and place of residence.

Answer. My name is Rumaldo Chaves; my age is seventy-two years; I reside at Polvadera, in Socorro county, Territory of New Mexico.

Ques. Are you acquainted with the San Lorenzo or Alamillo grant; and, if so, how long have you known it?

Ans. I have known it for forty years or more.

Ques. Do you know the location of the mesita of Alamillo and its little table-lands, which form the north boundary call of said grant; if so, where is it located?

And. I know the location of the little table-lands of Alamillo and the mesita. It is situated on the west bank of the Rio Grande. The table-lands run northwest to Ladron mountain and many miles northwest from Ladrone mountain.

Ques. Do you know the location of the north line of Pablo Garcia's ranch, which forms the south boundary call of said grant; if so, where is it located?

Ans. I know its location. It is situated on the west bank of the Rio Grande, about half mile south of the mouth of Ar-oya San Lorenzo. The north line of said ranch runs southwest from a cottonwood tree, near the acequia, towards Magdalena mountain, which I have this day helped to establish.

Ques. Do you know the location of the Jara spring, which forms the west boundary call of said grant; and, if so, where is it situated?

Ans. Jara spring is west from the Rio Grande about thirty miles, more or less.

Ques. How do you know the location of these natural objects?

Ans. From a personal knowledge and general reputation since I can remember.

Ques. Have you any interest in said grant; and, if so, what interest have you?

Ans. I have no interest in the San Lorenzo grant.

his
RUMALDO x CHAVES.
mark.

Subscribed in my presence and sworn to before me this 4th day of October, 1877.

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PLAINTIFF'S EXHIBIT No. 4.

On this 4th day of October, 1877, before me, Luciano Chaves, a *ju-s de paz* in and for the county of Socorro, Territory of New Mexico, personally appeared Franco. Chaves Marquez, of lawful age, and who, having been by me first duly sworn, deposeth and saith in answer to the following interrogatories:

Question. State your *anem*, age, and place of residence.

Ans. My name is Franco. Chaves Marquez, my age is seventy years, and I reside at Polvadera, in Socorro county, Territory of New Mexico.

Ques. Are you acquainted with the San Lorenzo or Alamillo grant; and, if so, how long have you known it?

Ans. I have known — about forty years.

Ques. Do you know the location of the mesita of Alamillo and the little table-lands which form the north boundary call of said grant; if so, where is it located?

Ans. I know the location of the mesita of Alamillo and the little table-lands. It is situated on the west bank of the Rio Grande; the table-lands runs about northwest to Lodran mountain, and having mills northwest from Lodran mountain.

Ques. Do you know the location of the north line of Pablo Garcia ranch, which forms the south boundary call of said grant; if so, where is it located?

Ans. I know its location. It is situated on the west bank of the Rio Grande, about half mile south of the mouth of the arroyo of San Borengo. The north line of said ranch runs about southwest from a cottonwood tree near the acequia, towards Magdalena mountain, which I have this day helped to establish.

Ques. Do you know the location of the Jara spring, which forms the west boundary call of said grant; and, if so, where is it situated?

Ans. No.

Ques. How do you know the location of these natural objects?

Ans. From a personal knowledge and general reputation since I can remember.

Ques. Have you any interest in said grant; and, if so, what interest have you?

Ans. I have no interest in the San Lorenzo grant.

FRANCO. CHAVES ^{his} x MARQUEZ.
mark.

Subscribed in my presence and sworn to before me this 4th day October, 1877.

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PLAINTIFF'S EXHIBIT No. 5.

Field-notes of the Survey of the Antonio Chavez Grant No. 79, Known as the Arroyo de San Lorenzo Tract, in Socorro County, New Mexico, by Sawyer and White, U. S. Dep. Surveyors, under Their Contract No. 76, of Aug. 8, 1877.

Survey commenced June 1st, 1878; survey concluded June 12, 1878.

Survey of the Antonio Chavez Arroyo de San Lorenzo tract.

The boundaries of this grant as stated in the special instructions of the surveyor general of Aug. 8, 1877, are "on the north, where the small table-land of the Alamillo begins; on the east, the Del Norte river; on the south, a small forked cedar tree in the middle of the land of the Pablo Garcia ranch, commonly so called, this little cedar being on the same side with the main road which is traveled toward said Socorro, on the side of the meadow; on the west, the spring known as the Jara spring."

These instructions furthermore say:

* * * "Your lines will be established by meandering the west bank of the Rio Grande on the east and the south edge of the Alamillo table-land on the north, and running along the coterminus boundary of Pablo Garcia's land on the south and a north-and-south line through the east edge of the Jara spring on the west."

The following additional instructions are also referred to:

SURVEYOR GENERAL'S OFFICE,
S^TA FÉ, NEW MEXICO, May 24, 1878.

Messrs. Sawyer & White, deputy surveyors under contract No. 76.

GENTLEMEN: In your letter of today you ask for further instructions for the survey of the Antonio Chavez (Alamillo or San Lorenzo arroyo) grant No. 79, concerning the south boundary of which you state there is a question among the parties in interest as where the north boundary of the Pablo Garcia ranch really is, that boundary being the south boundary of the Alameda grant.

The south boundary of the Alamillo grant (which is the north boundary of the Pablo Garcia tract) is described in the official

translation of the grant papers and in my special instructions to you of the 8th of August last as being "on the south of a small forked cedar tree in the middle of the land of the Pablo Garcia ranch, commonly so called, this little cedar being on the same side with the main road which is traveled towards said Socorro, on the side of the meadow." The original Spanish (with spelling corrected) of the translation above granted is "por el sur un sabinito horquetudo que esta en la inmediacion del rincon del rancho de Pablo Garcia que comunmente llaman. Este sabinito esta para el lado del camino real que se transita al dicho Socorro a la parte de la vega." I find upon a critical examination of the original Spanish here quoted that the word "middle" in the translation should have been understood vicinity. This circumstance will no doubt aid you in finding the true locality of the tree referred to, which I presume you had searched for in or about the middle of the bend. Among the papers on file in this office, the testimony of Juan Francisco Baca, taken in 1873, who therein declared he placed the grantee, Chavez, in possession of the grant in or about the year 1822, and that the tract is bounded "on the south by the ranch of Pablo Garcia, the line running towards a forked cedar tree about a mile and a half from the river." Of course it is indispensable to a correct survey that the north boundary of the Garcia ranch or land be ascertained and used, whether or not the tree or its locality be found. The Alamillo survey will — coterminous with the Garcia boundary, and should this not extend the whole length of the south boundary of the Alamillo and not have been an east-and-west line, the Alamillo will extend west from where the Garcia land terminates. If after finding and determining the boundary calls to your satisfaction and surveying accordingly, parties in interest complain to you, objecting to the surveys made, you will refer them to the surveyor general at Santa Fé for a hearing in the premises.

Very respectfully,

HENRY M. ATKINSON,

Surveyor General.

South Boundary of the Antonio Chavez Arroyo de San Lorenzo Tract.

I began the survey of this grant at its S. E. cor., at a point upon the west bank of the Rio Grande near the N. W. cor. of the Pa. Garcia ranch as located by the witnesses. The buildings of the ranch have been washed away by the river, and the forked cedar tree has also been destroyed; therefore ran due west, according to instructions, to intersection of line south from east edge of the Jara spring, for the location of which see evidence herewith submitted; also for the other boundary calls of this grant, where set a sandstone 18 x 12 x 6 in. half way in the ground, marked A. C., beg. cor. on N. W. face, and raised a mound of stone 2½ ft. high for the S. S. cor., from which—

Southern point of Mesita Aleman brs. N. 25° 15' E.

High point on opposite side of rivers brs. S. 66° 45' E., distant about 5 miles.

A large cottonwood tree on opposite side of river brs. S. 45° 54' E.

From the S. E. cor. on south boundary, as previously established,
I run—

West 1st mile; va., $12^{\circ} 23'$ E.

- 2.10 A cottonwood tree 18 in. dia. on line.
- 2.20 Acequia, 30 lks. wide; course N. E.
- 17.41 Road; course S. E. and N. W.
- 23.40 Road; course S. E. and N. W.
- 37.84 Road; course N. and S.
- 45.20 Telegraph line; course N. and S.
Road; course S. E. and N. W.
Road; course N. and S.
- 50.00 Acequia, 1 ch. wide; course S.
- 62.00 Road; course S. E. and N. W.
- 66.00 Road; course N. and S.

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- 67.00 Enter foot-hills of Polvadera mts., course N. and S.
- 80.00 Set a sandstone $12 \times 8 \times 7$ in. half way in the ground, marked
1 M. on E. side and raised a mound of stone $2\frac{1}{2}$ ft. high
for 1-mile cor.
1st 67 chs. 2nd-rate bottom land, with grass; balance stony,
3rd rate.

West on 2nd mile; va., $12^{\circ} 23'$ E.

- 45.00 Road, course S. E. and N. W.
- 80.00 Set a sandstone $15 \times 12 \times 4$ in. half way in the ground, marked
2 M. on E. side, and raised a mound of stone $2\frac{1}{2}$ ft. high
for 2-mile cor.
Low, rolling hills; stony, 3rd-rate land; poor grass.

West on 3rd mile; va., $12^{\circ} 20'$ E.

- 2.00 Arroyo, 10 chs. wide; course N. E.
- 80.00 Set a sandstone $16 \times 12 \times 8$ in. half way in the ground, marked
3 M. on E. side, and raised a mound of stone $2\frac{1}{2}$ ft. high
for 3-mile cor.
Low hills, sloping east; 3rd-rate, stony soil; poor grass.

West on 4th mile; va., $12^{\circ} 23'$ E.

- 4.00 Arroyo, 1 ch. wide; course N. E.
- 41.00 Arroyo, 50 lks. wide; course N.
- 74.00 Ascend high ridge, b'rs N. and S.
- 80.00 Set a sandstone (too rocky to dig) $12 \times 8 \times 7$ in., marked 4 M.
on E. side, in a mound of stone $2\frac{1}{2}$ ft. high, for 4-mile cor.
Broken, stony, 3rd-rate land; poor grass.
Corner on rocky ledge.

West on 5th mile; va., $12^{\circ} 23' E.$

- 11.00 Top of ridge.
- 26.00 Foot of ridge b'rs N. and S.
- 80.00 Set a sandstone $12 \times 3 \times 3$ in. half way in the ground, marked 5 M. on E. side, and raised a mound of stone $2\frac{1}{2}$ ft. high for 5-mile cor.
3rd-rate land; rocky ridges with a general slope E.; poor grass.

West on 6th mile; va., $12^{\circ} 23' E.$

- 80.00 Set a sandstone $14 \times 8 \times 6$ in. (too rocky to dig) in a mound of stone $2\frac{1}{2}$ ft. high; stone marked on E. side 6 M. for 6-mile corner.
3rd-rate land; rough, rocky ridges; poor grass.

West on 7th mile; va., $12^{\circ} 23' E.$

- 37.00 Begin to ascend ridge; b'rs N. and S.
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- 43.00 Top of ridge b'rs N. and S.
- 68.00 Foot of ridge b'rs N. and S.
- 80.00 Set a sandstone $16 \times 12 \times 10$ in. half way in the ground, marked 7 M. on E. side, and raised a mound of stone $2\frac{1}{2}$ ft. high for 7-mile corner.
3rd-rate, broken land; good grass.

West on 8th mile; va., $12^{\circ} 26' E.$

- 14.00 Top of ridge } b'rs N. and S.
- 19.50 Foot of ridge }
- 80.00 Set a sandstone (too stony to dig) $18 \times 12 \times 8$ in., marked 8 M. on E. side, and raised a mound of stone $2\frac{1}{2}$ ft. high for 8-mile corner.
3rd-rate land; rough, broken hills; good grass.

West on 9th mile; va., $12^{\circ} 26' E.$

- 54.00 Road; course N. and S.
- 55.00 1.50 chs. S. to the 9th-mile cor. on N. boundary of Socorro grant.
- 74.00 Edge of prairie, N. and S.

Va., $12^{\circ} 29' E.$

- 80.00 Set a trap-stone $12 \times 7 \times 8$ in. half way in the ground, marked 9 M. on E. side, and raised a mound of earth $2\frac{1}{2}$ ft. high, with 4 pits $24 \times 18 \times 12$ in deep, for 9-mile cor.
1st 74 chs. broken, stony, 3rd rate; bal., 2nd-rate land; good grass.

West on 10th mile; va., $12^{\circ} 29' E.$

- 80.00 Set a trap-stone 6 x 10 x 5 in. about 4 in. in the ground, marked 10 M. on E. side, and raised a mound of earth $2\frac{1}{2}$ ft. high, with 4 pits 24 x 18 x 12 in. deep, for 10-mile cor.
Level 2nd-rate land; good grass.
June 1st, 1878.

West on 11th mile; va., $12^{\circ} 15' E.$

- 80.00 Set a trap-rock 6 x 7 x 4 in. half way in the ground, marked 11 M. on E. side, and raised a mound of earth $2\frac{1}{2}$ ft. high, with 4 pits 24 x 18 x 12 in. deep, for 11-mile cor.
2nd-rate, level land; good grass.

West on 12th mile; va., $12^{\circ} 9' E.$

- 75.00 Enter valley of the Jenza.
80.00 Set a trap-rock 15 x 10 x 6 in. half way in the ground, marked 12 M. on E. side, and raised a mound of earth $2\frac{1}{2}$ ft. high, with 4 pits 24 x 18 x 12 in. deep, for 12-mile cor.
184 2nd-rate land; good grass.

West on 13th mile; va., $12^{\circ} 12' E.$

- 45.00 Leave valley, ascend ridge; b'rs N. and S.
51.10 Top of ridge b'rs N. and S.
80.00 Set a trap-rock 12 x 10 x 6 in. half way in the ground, marked 13 M. on E. side, and raised a mound of earth $2\frac{1}{2}$ ft. high, with 4 pits 24 x 18 x 12 in. deep, for 13-mile corner.
2nd-rate, level, prairie land; good grass.

West on 14th mile; va., $12^{\circ} 12' E.$

- 80.00 Set a trap-rock 15 x 5 x 2 in. half way in the ground, marked 14 M. on E. side, and raised a mound of earth $2\frac{1}{2}$ ft. high, with 4 pits 24 x 18 x 12 in. deep, for 14-mile corner.
2nd-rate, level, prairie *level* land; good grass.

West on 15th mile; va., $12^{\circ} 13' E.$

- 80.00 Set a trap-rock 10 x 8 x 7 in. half way in the ground, marked 15 M. on E. side, and raised a mound of earth $2\frac{1}{2}$ ft. high, with pits 24 x 18 x 12 in. deep, for 15-mile corner.
2nd-rate, level, prairie land; good grass.

West on 16th mile; va., $12^{\circ} 13' E.$

- 80.00 Set a trap-rock 10 x 8 x 6 in. half way in the ground, marked 16 M. on E. side, and raised a mound of earth $2\frac{1}{2}$ ft. high, with pits 24 x 18 x 12 in. deep, for 16-mile corner.
2nd-rate prairie land; good grass.

West on 17th mile; va., $12^{\circ} 13' E$.

- 69.00 Arroyo, 10 lks. wide; course N. E. and S. W.
 80.00 Set a trap-rock $13 \times 11 \times 9$ in. half way in the ground, marked 17 M. on east side, and raised a mound of earth $24 \times 18 \times 12$ in. deep for 17-mile corner.
 2nd-rate, level land; good grass.

West on 18th mile; va., $12^{\circ} 13' E$.

- 80.00 Set a granite stone $15 \times 8 \times 4$ in. half way in the ground, marked 18 M. on E. side, and raised a mound of stone $2\frac{1}{2}$ ft. high, with 4 pits $24 \times 18 \times 12$ in. deep, for 18-mile cor.
 2nd-rate, level land; good grass.

West on 19th mile; va., $13^{\circ} 34' E$.

Thence, to avoid high hill, south on offset line 30 chs.
 Thence west on offset line.

- 77.00 Foot of slope b'rs E.

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- 80.00 Set wit. 19-mile cor. 30 chs. south of true point by setting a granite stone $25 \times 8 \times 5$ in. half way in the ground, marked 19 M. on E. side, and raised a mound of stone $2\frac{1}{2}$ ft. high.
 3rd-rate stony land; good grass.

West on offset line 20th mile; va., $13^{\circ} 34' E$.

- 3.20 Top of slope b'rs W.
 8.00 Foot of slope b'rs W.
 80.00 Set for witness 20-mile cor. 30 chs. south of true point a granite stone $14 \times 8 \times 6$ in. half way in the ground, marked 20 M. on E. side, and raised a mound of stone $2\frac{1}{2}$ ft. high.
 3rd-rate rough and broken land; good grass.
 June 2, '78.

West on offset line 21st mile; va., $12^{\circ} 12' E$.

- 12.00 Foot of slope b'rs N. and S.
 27.00 Top of slope b'rs N. and S.
 43.00 Foot of slope b'rs N. and S.
 57.00 Offset north 30 chs. and regain line.
 80.00 Set a basalt stone $14 \times 10 \times 4$ in. half way in the ground, marked 21 M. on E. side, and raised a mound of earth $2\frac{1}{2}$ ft. high, with 4 pits $24 \times 18 \times 12$ in. deep, for 21-mile corner.
 3rd-rate, rough, broken land; scrub piñon and cedar; good grass.

West (true line) 22nd mile; va., $11^{\circ} 59' E.$

- 80.00 Set a basalt rock 12 x 9 x 5 in. half way in the ground, marked 22 M. on E. side, and raised a mound of stone $2\frac{1}{2}$ ft. high, for 22-mile corner.
Rough, broken, 3rd-rate land; good grass.

West on 23rd mile; va., $11^{\circ} 28' E.$

- 80.00 Set a basalt stone 16 x 8 x 3 in. half way in the ground, marked 23 M. on E. side, and raised a mound of stone $2\frac{1}{2}$ ft. high, for 23-mile corner.
3rd-rate broken land; good grass, with scrub cedar and piñon.

West on 24th mile; va., $11^{\circ} 28' E.$

- 30.00 Foot of Bear Spring Mts., course N. and S.
40.00 Top of Bear Spring Mts., course N. and S.
51.00 Foot of Bear Spring Mts., course N. and S.
80.00 Set a trap-rock 12 x 6 x 5 in. half way in the ground, marked 24 M. on E. side, and raised a mound of earth $2\frac{1}{2}$ ft. high, with 4 pits 24 x 18 x 12 in. deep, for 24-mile corner.

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Rough, broken, 2nd-rate land; good grass.

West on 25th mile; va., $11^{\circ} 09' E.$

- 67.00 Arroyo 3 chs. wide, course S.
80.00 Set a basalt stone 18 x 16 x 12 in. half way in the ground, marked 25 M. on E. side, and raised a mound of stone $2\frac{1}{2}$ ft. high for 25-mile cor.
Broken, stony, 3rd-rate land; good grass.

West on 26th mile; va., $11^{\circ} 09' E.$

- 34.44 To a point determined by a blank line to be due south of the east edge of the Jara spring, the western boundary call of the grant, which is a universally known point, and is also identified in the evidence herewith submitted, where set for S. W. cor. of grant a basalt stone 24 x 20 x 14 in. half way in the ground, marked (S. W. cor., A. C.) on N. E. face, and raised a mound of stone $2\frac{1}{2}$ ft. high.
A high point in Gallinas Mt. b'rs S. $44^{\circ} 30' W.$
A bald point on Magdalena Mt. b'rs S. $30^{\circ} 28' E.$
June 4th, 1878.

*West Boundary of the Antonio Chavez Arroyo de San Lorenzo Tract.*North 1st mile; va., $11^{\circ} 09' E$.

- 80.00 Set a malpais stone 20 x 10 x 6 in. half way in the ground marked 1 M. on S. side, and raised a mound of stone $2\frac{1}{2}$ ft high for 1-mile cor.
2nd-rate soil; good grass.
Piñon, cedar.

North 2nd mile; va., $11^{\circ} 09' E$.

- 42.00 Deep arroyo 1 ch. wide, course W.
74.00 Deep arroyo 2 chs. wide, course W.
80.00 Set a malpais stone 16 x 10 x 8 in. half way in the ground, marked 2 M. on S. side, and raised a mound of stone $2\frac{1}{2}$ ft. high for 2-mile cor.
2nd-rate stone land; good grass; cedar and piñon.

North on 3rd mile; va., $11^{\circ} 09' E$.

- 18.00 Enter fallen timber scorched by fire.
22.00 Arroyo 2 chs. wide, course W.
54.00 Arroyo (deep) 1 ch. wide, course S. W.
Leave fallen and enter standing timber.
80.00 Set a basalt stone 18 x 12 x 4 in. half way in the ground, marked 3 M. on S. side, and raised a mound of stone $2\frac{1}{2}$ —
187 for 3-mile cor.

North 4th mile; va., $12^{\circ} 42' E$.

- 80.00 Set a basalt stone 14 x 10 x 6 in. half way in the ground, marked 4 M. on E. side, and raised a mound of stone $2\frac{1}{2}$ ft. high for 4-mile cor.
Broken, stony, 3rd-rate land; good grass.

North 5th mile; va., $12^{\circ} 45' E$.

- 16.00 Foot of hill, course E. and W.
28.00 Top of hill, course E. and W.
50.00 Foot of hill b'rs E. and W.; ascend another.
65.00 Top of hill b'rs E. and W.
80.00 Set a malpais stone 12 x 10 x 8 in. half way in the ground, marked 5 M. on S. side, and raised a mound of stone $2\frac{1}{2}$ ft. high for 5-mile cor.
2nd-rate land; piñon and cedar; good grass.

North on 6th mile; va., $12^{\circ} 45' E$.

- 11.00 Foot of hill b'rs E. and W.
80.00 Set a malpais stone 24 x 18 x 12 in. half way in the ground, marked 6 M. on S. side, and raised a mound of stone $2\frac{1}{2}$ ft. high for 6-mile cor.
2nd-rate land; good grass; cedar and piñon.

North on 7th mile; va., $12^{\circ} 45'$ E.

- 80.00 Set a basalt stone $14 \times 10 \times 4$ in. half way in the ground, marked 7 M. on S. side, and raised a mound of stone $2\frac{1}{2}$ ft. high for 7-mile cor.
3rd-rate land, rolling, rough; good grass; cedar.

North on 8th mile; va., $12^{\circ} 45'$ E.

- 80.00 Set a sandstone of required size half way in the ground, marked 8 M. on S. side, and raised a mound of stone $2\frac{1}{2}$ ft. high for 8-mile cor.
Rough, rocky, and arroyos last 40 chs.; sandstone formation; 3rd-rate land; grass.

North on 9th mile; va., $12^{\circ} 45'$ E.

- 80.00 Set a sandstone $12 \times 10 \times 6$ in. half way in the ground, marked 9 M. on S. side, and raised a mound of stone $2\frac{1}{2}$ ft. high for 9-mile cor.
3rd-rate hilly land; grass.

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North on 10th mile; va., $12^{\circ} 45'$ E.

- 30.00 Begin to ascend hill, b'rs E. and W.
62.00 Top of hill b'rs E. and W.
80.00 Set a basalt stone $14 \times 8 \times 4$ in. half way in the ground, marked 10 M. on S. side, and raised a mound of stone $2\frac{1}{2}$ feet high for 10-mile corner.
3rd-rate, base, broken land.

North on 11th mile; va., $12^{\circ} 45'$ E.

- 3.00 Foot of hill b'rs N. and S.
80.00 Set a sandstone $20 \times 6 \times 6$ in. half way in ground, marked 11 M. on S. side, and raised a mound of earth $2\frac{1}{2}$ feet high, with four pits $24 \times 18 \times 12$ in. deep, for 11-mile cor.
3rd-rate land; grass.
June 5th, 1878.

North on 12th mile; va., $12^{\circ} 45'$ E.

- 80.00 Set a sandstone $16 \times 10 \times 8$ in. half way in the ground, marked 12 M. on S. side, and raised a mound of stone $2\frac{1}{2}$ feet high for 12-mile corner.
3rd-rate land, with grass.

North on 13th mile; va., $12^{\circ} 45'$ E.

- 56.46 To eastern edge of the Jara spring, the western boundary call of the grant, where set for N. W. cor. a sandstone

24 x 10 x 7 in. half way in the ground, marked N. W. cor., A. C., on S. E. face, and raised a mound of stone $2\frac{1}{2}$ ft. high.

A high point of rock b'rs N. 66' E., distant about 66 chs.

A high point b'rs S. 17° 55' E., about 2 miles distant.

A point of white rock b'rs S. 76° 15' W., about 90 chs. dist.

June 6, 1878.

Having previously determined that the course of S. 69° 50' E. would strike the western extremity of the southern edge of the Alamillo table-land, the northern boundary call of the grant, from the N. W. cor., on north boundary, green.

S. 69° 50' E., 1st mile; va., 12° 51' E.

- 80.00 Set a sandstone 18 x 12 x 4 in. half way in the ground, marked 1 M. in N. W. face, and raised a mound of stone $2\frac{1}{2}$ ft. high for 1-mile corner.
2nd-rate land; poor grass.

S. 69° 50' E., 2nd mile; va., 12° 51' E.

- 51.00 Sandstone ledge b'rs N. and S.
54.00 Top of ledge b'rs N. and S.
80.00 Set a sandstone 20 x 14 x 4 in. half way in the ground, marked 2 M. on N. W. side, and raised a mound of stone $2\frac{1}{2}$ ft. high for 2-mile cor.
2nd-rate soil; good grass.

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Some cedar trees.

S. 69° 50' E., 3rd mile; va., 12° 51' E.

- 80.00 Set a sandstone 12 x 6 x 4 in. half way in the ground, marked 3 M. on N. W. side; raised a mound of stone $2\frac{1}{2}$ ft. high for 3-mile cor.
Rolling and broken, 2nd-rate land; good grass.

S. 69° 50' E., 4th mile; va., 13° 5' E.

- 80.00 Set a sandstone 14 x 10 x 4 in. half way in the ground, marked 4 M. on N. W. side, and raised a mound of stone $2\frac{1}{2}$ ft. high for 4-mile cor.
Rough, rolling, broken, 2nd-rate land; good grass; cedar brush.

S. 69° 50' E., 5th mile; va., 13° 5' E.

- 80.00 Set a sandstone 14 x 12 x 4 in. half way in the ground, marked 5 M. on N. W. side; raised a mound of stone $2\frac{1}{2}$ ft. high for 5-mile cor.
Rough, rolling, broken, 3rd-rate land; good grass; cedar and piñon.

S. 69° 50' E., 6th mile; va., 12° 51' E.

- 61.00 Arroya 8 chs. wide, course N. E.; ascend ledge, b'rs N. E. and S. W.
 73.00 Top of sandstone ledge N. E. and S. W.
 80.00 Set a sandstone 14 x 8 x 4 in. half way in the ground, marked 6 M. on N. W. side, and raised a mound of stone 2½ ft. high for 6-mile cor.
 Rough, broken, 2nd-rate land; grass.

S. 69° 50' E., 7th mile; va., 12° 51' E.

- 46.00 Sandstone ledge.
 55.00 Top of ledge.
 80.00 Set a sandstone 18 x 14 x 8 in. half way in the ground, marked 7 M. on N. W. side, and raised a mound of stone 2½ ft. high for 7-mile cor.
 Rough, hilly, 3rd-rate land, with grass.

S. 69° 50' E., 8th mile; va., 12° 51' E.

- 80.00 Set a sandstone 18 x 12 x 4 in. half way in the ground, marked 8 M. on N. W. side, and raised a mound of stone 2½ ft. high for 8-mile cor.
 Rough, rocky, broken, 3rd-rate land, with grass.

S. 69° 50' E., 9th mile; va., 11° 48' E.

- 80.00 Set a sandstone 18 x 12 x 10 in. half way in the ground, marked 9 M. on N. W. side, and raised a mound of stone 2½ ft. high for 9-mile cor.
 3rd-rate land; good grass; scrub piñon, and cedar.

S. 69° 50' E., 10th mile; va., 11° 48' E.

- 44.00 190 Arroya 1 ch. wide, course N. E.
 80.00 Set a sandstone 12 x 9 x 6 in. half way in the ground, marked 10 M. on N. W. side; raised a mound of stone 2½ ft. high for 10-mile cor.
 3rd-rate, broken land, with grass.

S. 69° 50' E., 11th mile; va., 11° 48' E.

- 80.00 Set a sandstone 12 x 8 x 6 in. half way in the ground, marked 11 M. on N. W. side, and raised a mound of stone 2½ ft. high for 11-mile cor.
 Rolling, 3rd-rate land; poor grass.
 June 8, 1878.

S. 69° 50' E., 12 mile; va., 11° 48' E.

- 80.00 Set a sandstone 18 x 12 x 10 in. half way in the ground, marked 12 M. on N. W. side, and raised a mound of stone 2½ ft. high for 12-mile cor.
 Broken, 3rd-rate land; poor grass.

S. 69° 50' E., 13th mile; va., 11° 48' E.

- 80.00 Set sandstone 12 x 10 x 6 in. half way in the ground, marked 13 M. in N. W. side, and raised a mound of stone 2½ ft. high for 13-mile cor.
3rd-rate, rolling land; poor grass.
Cedar and piñon.

S. 69° 50' E., 14th mile; va., 11° 48' E.

- 80.00 Set a sandstone 14 x 12 x 8 in. half way in the ground, marked 14 M. in N. W. side, and raised a mound of stone 2½ ft. high for 14-mile cor.
3rd-rate, rolling, broken land; good grass.

S. 69° 50' E., 15th mile; va., 11° 48' E.

- 80.00 Set a sandstone 16 x 8 x 8 in. half way in the ground, marked 15 M. on N. W. side, and raised a mound of stone 2½ ft. high for 15-mile cor.
3rd-rate, rolling land; poor grass.

S. 69° 50' E., 16th mile; va., 12° 52' E.

- 9.00 Begin ascent of slopes from Tadron Mt., course N. E. & S. W.
29.00 Top of slopes " " " "
36.00 Foot of slopes " " " "
Arroya Salada, 2 chs. wide, course N. E.
38.00 Commence ascent bluff.
48.00 Top of bluff b'rs N. E. and S. W.
55.00 Foot of bluff b'rs N. E. and S. W.
80.00 Set a sandstone 14 x 10 x 6 in. half way in the ground, marked 16 M. on N. W. side, and raised a mound of stone 2½ ft. high for 16-mile cor.
191 Rolling, 3rd-rate land, with grass.

S. 69° 50' E., 17th mile; va., 12° 52' E.

- 4.00 Enter arroya 28 chs. wide, course N. E.
32.00 Enter low hills, course N. E. and S. W.
80.00 Set to sandstone 12 x 8 x 7 in. half way in the ground, marked 17 M. on N. W. side, and raised a mound of stone 2½ feet high for 17-mile corner.
Broken, stony, 3rd-rate land, with grass.

S. 69° 50' E., 18th mile; va., 12° 52' E.

- 47.62 Intersect W. boundary of the Cevbilleta grant 8.71 chs. S. of 6-mile corner.
80.00 Set a sandstone 10 x 9 x 7 in. half way in the ground, marked 18 M. on N. W. side, and raised a mound of stone 2½ ft. high for 18-mile cor.
Rough, 3rd-rate, broken, and rolling land; good grass.

S. 69° 50' E., 19th mile; va., 12° 52' E.

- 80.00 Set a sandstone 16 x 8 x 5 in. half way in the ground, marked 19 M. — N. W. side, and raised a mound of stone 2½ ft. high for 19-mile cor.
3rd-rate, rocky land, with sandstone ledges and grass.

S. 69° 50' E., 20th mile; va., 12° 40' E.

- 13.00 Arroyo 1 ch. wide, course N.
22.00 Foot of ridge, N. and S.
53.00 Top of ridge, N. and S.
69.00 Foot of ridge, N. & S.
80.00 Set of sandstone 14 x 12 x 8 in. half way in the ground, marked 20 M. on N. W. side, and raised a mound of stone 2½ ft. high for 20-mile cor.
Broken, 3rd-rate land; grass.

S. 69° 50' E., 21st mile; va., 12° 40' E.

- 80.00 Set of sandstone 18 x 12 x 10 in. half way in the ground, marked 21 M. on N. W. side, and raised a mound of stone 2½ ft. high for 21-mile cor.
Low, rolling hills; 3rd-rate land; good grass.

S. 69° 50' E., 22nd mile; va., 12° 40' E.

- 80.00 Set of sandstone 14 x 10 x 8 in. half way in the ground, marked 22 M. on N. W. side, and raised a mound of stone 2½ ft. high for 22-mile cor.
192 2nd-rate, rolling land; good grass.

S. 69° 50' E., 23rd mile; va., 12° 40' E.

- 80.00 Set of sandstone 10 x 9 x 6 in. half way in the ground, marked 23 M. in N. W. side, and raised a mound of stone 2½ ft. high for 23-mile cor.
Rough, barren, broken, 3rd-rate land.
June 9, 1878.

S. 69° 50' E., 24th mile; va., 12° 41' E.

- 80.00 Set of sandstone 12 x 12 x 6 in. half way in the ground, marked 24 M. in N. W. side, and raised a mound of stone 2½ ft. high for 25-mile cor.
Low, barren hills; 3rd-rate land; poor grass.

S. 69° 50' E., 25 mile; va., 12° 39' E.

- 80.00 Set of sandstone 10 x 8 x 8 in. half way in the ground, marked 25 M. on N. W. side, and raised a mound of earth 2½ ft. high, with four pits 24 x 18 x 12 in. deep, for 25-mile cor.
3rd-rate sand hills; poor grass.

S. 69° 50' E., 26th mile; va., 12° 39' E.

- 80.00 Set of sandstone 14 x 12 x 6 in. half way in the ground, marked 26 M. on N. W. side, and raised a mound of earth 2½ ft. high, with 4 pits 24 x 18 x 12 in. deep, for 26th-mile cor.

3rd-rate, sandy land, sloping east; poor grass.

S. 69° 50' E., 27 mile; va., 12° 39' E.

- 64.00 Enter river bottom, course N. and S.

- 80.00 Set of sandstone 18 x 12 x 6 in. half way in the ground, marked 27 M. on N. W. side, and raised a mound of earth 2½ ft. high, with 4 pits 24 x 18 x 12 in. deep, for 27-mile cor.

1st 64 chs. 3rd-rate, sandy land, sloping east, bal. 2nd-rate bottom, all with grass.

S. 69° 50' E., 28th mile; va., 12° 39' E.

- 13.00 Road, course N. E. and S. W.

- 17.00 To W. and right bank of Rio Grande river, course S. W.; comes from a little N. of east.

Built a mound of earth.

To avoid river, offset N. 20 10' E. 15 chs., thence an offset line S. 69° 50' E. 63 chs.

- 80.00 Set for wit. 28-mile cor.

- 193 N. 20° 10' E. 15 chs. of true point ¼ cor., a sandstone 20 x 10 x 4 in., half way in the ground, marked 28 M. on N. W. side, and raised a mound of earth 2½ ft. high, with 4 pits 24 x 18 x 12 in. deep.

2nd-rate, rolling land, with grass.

S. 69° 50' E., 29th mile; va., 12° 39' E.

Continuing in offset line 15 chs., thence on offset line S. 20° 10' W. 15 chs.

- 15.00 Regain line on right-hand bank of Rio Grande, course N. W., where set a sandstone of required size, marked on N. W. side half way in the ground, and raised a mound of earth 2½ ft. high, with 4 pits 24 x 18 x 12 in. deep; thence continuing on N. boundary—

- 33.64 To W. side of S. edge of the Alamillo table-land, the N. boundary call of the grant, where set a sandstone 18 x 12 x 12 in. half way in the ground, marked M. C. on its southern side, and raised a mound of stone 2½ ft. high.

2nd-rate land, with grass.

June 10, 1878.

Thence meander along south edge of the Alamillo table-land, the northern boundary call of the grant, which is (as are all the other boundaries call of this grant) universally known.

Courses.	Distances.
S. 49° E.	14.20
S. 9½° E.	15.21 at 3 chs. intersect base line 10.09 ch. E. of initial point.
S. 12¾° E.	5.00
N. 86¾° E.	8.50
N. 54¼° E.	1.00 to N. E. cor. and foot of table-land of grant on W. bank of the Rio Grande river, where set a sandstone. 2nd-rate land; bottom land; good soil and grass. I now return to the S. E. cor. of the grant and meander up the W. bank of Rio Grande, the eastern boundary of the grant; va., 12° 23' E.

Courses.	Distances.
N. 8½° W.	18.50
N. 19¼° W.	10.00
N. 9½° E.	14.00 a few <i>some</i> cottonwoods at this station.
North	15.00
N. 7¾° E.	15.00 at 7 chs. mouths San Lorenzo arroyo, 3 chs. wide; at 10 chs. N. boundary Socorro grant, 2.93 chs. E. of M. C. at mouth of San Lorenzo arroyo, & also with S. boundary of La Galla grant.
N. 44° E.	24.00 at 23 chs. enter cottonwoods bear N. and S.
N. 56½° E.	21.00
N. 77½° E.	9.00
S. 84° E.	12.00
N. 86¾° E.	24.00
N. 28¼° E.	7.00
N. 23° W.	21.00

June 11, 1878.

194 *East Boundary of the Antonio Chavez Arroyo de San Lorenzo Tract.*

Courses.	Distances.
N. 48¼° W.	11.00
N. 74½° W.	15.00
N. 79¼° W.	14.50
S. 53° W.	9.00
N. 80¾° W.	8.50 leave cottonwoods <i>bare</i> E. and W.
S. 88¾° W.	13.00
N. 48¼° W.	20.00
N. 21½° W.	19.00
N. 3¼° E.	12.00
N. 6½° W.	20.00 at 30 chs. acequia 20 chs. wide b'rs S. W.; at 10 chs. Alamillo 10 chs. west.
N. 3½° W.	10.00

N. $10\frac{1}{2}^{\circ}$ W.	5.00	at 2.03 chs. intersect base line two chs. 94 lks. W. of $\frac{1}{4}$ sec. cor. of sec. 35, T. 1 N., R. 1 W.
N. $9\frac{3}{4}^{\circ}$ E.	17.00	
N. 26° E.	21.00	
N. $37\frac{3}{4}^{\circ}$ E.	6.00	va., 12 20' E.
N. 72° E.	16.00	to point of intersection of the north boundary of the grant with east boundary.

I now proceed to the point of 15 chs. on 29th mile of N. boundary, being the point where N. boundary emerges from the river, and meander along east boundary upon right bank of the Rio Grande to the N. E. corner.

S. $30\frac{1}{2}^{\circ}$ E.	24.00	22.50 chs. intersect base line 9 chs. W. of initial monument.
S. $34\frac{1}{2}^{\circ}$ E.	16.00	9 chs. intersect principal meridian 9 chs. S. of the initial monument.
S. $45\frac{3}{4}^{\circ}$ E.	11.00	
S. 81° E.	5.50	
N. $38\frac{3}{4}^{\circ}$ E.	9.90	to N. E. corner of grant.

June 12, 1878.

General Description.

This grant lies upon the west side of the Rio del Norte river, in Socorro county, and includes the arroyo of San Lorenzo. The eastern portion upon the river has a small amount of agricultural land with considerable cottonwood timber. The remainder of the grant is upland and generally well adapted to grazing purposes, the springs of La Jinza, San Lorenzo, Ojo de la Plata, Ojo de la Cruz, and Del Causo affording a good supply of water for the stock upon it. The mountains on the western portion have plenty of cedar and pinion with the cottonwoods in the arroyos. I was informed that there are a number of other springs upon the grant in addition to those mentioned, but I did not learn their names or location. It has upon it about 50 or 60 inhabitants, living in the valley of the Rio Grande.

A very large number of sheep and cattle are grazed upon it.

A list of names of the individuals employed to assist in running, measuring, and marking the lines and corners described in the foregoing field-notes of the survey of the Antonio Chavez Arroyo de San Lorenzo private land claim.

Andres Trujillo, chairman.

Jose Dorume, chairman.

Ysidro Madril, flagman.

195 Juan Lucero, axeman.

Luis Martin, axeman.

We hereby certify that we assisted Daniel Sawyer, deputy surveyor, in surveying the exterior boundaries of private land claim the Antonio Chavez Arroyo de San Lorenzo tract, No. 79 in the Territory of New Mexico, and that said claim has been in all respects, to the best of our knowledge and belief, well and faithfully surveyed, and the boundary monuments planted according to the instructions furnished by the surveyor general.

ANDRES TRUJILLO, *Chairman.*

^{his}
JOSE x DORUME, *Chairman.*

^{mark.}
YSIDRO MADRIL, *Flagman.*

^{his}
JUAN LUCERO, *Aceman.*

^{mark.}
^{his}
LUIS x MARTIN, *Aceman.*
^{mark.}

Sworn to and subscribed before me, at Socorro, N. M., this 13th day of June, A. D. 1878.

ANTONIO ABEYTIA, *Y A.*
Notary Public.

I, Daniel Sawyer, United States deputy surveyor, do solemnly swear that in pursuance of a joint contract wherein Daniel Sawyer and William White are joint contractors with Henry N. Atkison, United States surveyor for New Mexico, bearing date the 8th day of August, 1877, I have faithfully and truly, in my own proper person and in strict conformity with the instructions furnished me by said surveyor general, the surveying manuel and laws of the United States, surveyed the boundaries lines of private land claim the Antonio Chavez Arroyo de San Lorenzo tract, No. 79, in the Territory of New Mexico; that the description of corners upon said boundary lines are in each instance described true and full descriptions of such corners, and that the foregoing are the true and original field-notes of said surveys.

D. SAWYER.

Subscribed and sworn to before me this 28th day of June, 1878.

HENRY N. ATKISON,
United States Surveyor General.

SURVEYOR GENERAL'S OFFICE,
SANTA FE, N. M., August 12, 1878.

The field-notes of the survey of the Antonio Chavez grant, No. 79, executed by Messrs. Sawyer and White, U. S. deputy surveyors, under their contract No. 76, of August 8, 1877, with the U. S. surveyor general for New Mexico, in the month of June, 1878, having been critically examined and the necessary corrections and explanations made, the said field-notes and the survey they describe, ex-

cept that portion of said survey east of where the north boundary line first intersects the east boundary on the Rio Grande, are approved.

HENRY N. ATKISON,
Surveyor General.

196 DEFENDANT'S EXHIBIT—TESTIMONY OF JUAN FRANCISCO BACA.

Testimony of Juan Francisco Baca, Taken Before Joseph C. Hill, U. S. Commissioner, in Regard to the Ranch or Sitio of Alamillo or Arroyo of San Lorenzo.

My name is Juan Francisco Baca; I live in Limitar, in the county of Socorro, and I was 85 years of age in August, 1873.

I know the sitio of Alamillo or arroyo of San Lorenzo. I have known it since the year 1815 or 1816. It was granted to Antonio Chaves, commonly known as Antonio Chaves. I was at that time alcalde constitutional. The departmental deputation sent me an order to place said Antonio Chaves in possession of the said sitio. This was about the year 1822. I am not very certain as to the date.

The sitio is bounded on the north by the Mesita del Alamillo where it leaves the river, on the east by the Rio del Norte, on the south by the ranch of Pablo Garcia, the line running toward a forked cedar tree about a mile and a half from the river. I do not remember the western boundary. I placed Antonio Chaves in possession in due form of law. He took possession and kept continuous possession of the same until his death. His heirs sold the sitio to Ramon Luna, Rafael Luna, and Anastacio Garcia. They have continuously occupied the said sitio up to the present time.

I am not interested in the said sitio or tract of land in any manner whatsoever.

his
JUAN FRANCISCO BACA.
mark.

Witness:

J. FRANCO. CHAVES.

I, Joseph C. Hill, a United States commissioner for the Territory of New Mexico, do certify that the foregoing evidence was duly taken by me, first having caused the said Juan Francisco Baca to come before me, who, first having duly sworn him to speak the truth, the whole truth, and nothing but the truth, that thereupon he testified in the words set forth in the foregoing testimony signed by him; that said testimony was taken by me at Limitar, in the county of Socorro, on the 1st day of November, in accordance with the request and direction of the surveyor general of the Territory of New Mexico sent to me to that effect.

J. C. HILL,
U. S. Commissioner.

197 DEFENDANT'S EXHIBIT A—TESTIMONY OF FRANCISCO CHAVEZ.

United States Court of Private Land Claims.

MARTIN B. HAYES
vs.
 THE UNITED STATES OF AMERICA. } No. 37.

STATE OF COLORADO, }
 Court of Arapahoe. }

I, J. Francisco Chaves, being duly sworn as a witness in the said cause, deposes and says that he resides in the county of Valencia, in the Territory of New Mexico; that he is president of the council of the said Territory at the present session of the legislative assembly thereof; that he knew the late Juan Francisco Baca, formerly alcalde of Socorro, the same person whose name is subscribed to the act of juridical possession filed in the office of the surveyor general for the said Territory in the matter of the Antonio Chaves grant, the subject of this action, and whose name is also subscribed to the deposition taken under the direction of the said surveyor general as part of the late proofs on the examination by the said surveyor general into the question of the existence and validity of the said grant, being the depo- whereof a copy was attached to the report of the said surveyor general (James K. Proudfit) to Congress upon the said private land claim, and that this was an attesting witness to the said deposition.

He further says that the said Juan Francisco Baca died many years ago.

J. FRANCISCO CHAVEZ.

Subscribed and sworn to before me this 14th day of February, A. D. 1893.

[SEAL NOTARY PUBLIC.]

A. H. MARTIN,
Notary Public.

My commission expires 27 Feb'y, 1894.

199 DEFENDANT'S EXHIBIT A 1, FROM FILES OF SURVEYOR GENERAL.

On this 4th day of October, 1877, before me, Luciano Chaves, a juez de paz in and for the county of Socorro, Territory of New Mexico, personally appeared RUMALDO CHAVEZ, of lawful age, and who, having been by me first duly sworn, deposeth and saith in answer to the following interrogatories:

Question. State your name, age, and place of residence.

Answer. My name is Rumaldo Chavez; my age is seventy-two years, and I reside at Polvadera, in Socorro county, Territory of New Mexico.

Ques. Are you acquainted with the San Lorenzo or Alamillo grant; and, if so, how long have you known it?

Ans. I have known it for forty years or more.

Ques. Do you know the location of the mesita of Alamillo and the little table-lands which forms the north boundary call of said grant? If so, where is it located?

Ans. I know the location of the little table-lands of Alamillo and the mesita. It is situated on the west bank of the Rio Grande. The table-lands run northwest to Ladron mountain and many miles northwest from Ladron mountain.

Ques. Do you know the location of the north line of Pablo Garcia's ranch, which forms the south boundary call of said grant? If so, where is it located?

Ans. I know its location. It is situated on the west bank of the Rio Grande, about half mile south of the mouth of Aroya San Lorenzo. The north line of said ranch runs southwest from a cottonwood tree near the ascequia toward Magdalena mountain, which I have this day helped to establish.

Ques. Do you know the location of the Jara spring, which forms the west boundary call of said grant; and, if so, where is it situated?

200 Ans. Jara spring is west from the Rio Grande about thirty miles, more or less.

Ques. How do you know the location of these natural objects?

Ans. From a personal knowledge and general reputation since I can remember.

Ques. Have you any interest in said grant; and, if so, what interest have you?

Ans. I have no interest in the San Lorenzo grant.

Subscribed in my presence and sworn to before me this 4th day of October, 1877.

RUMALDO CHAVEZ. ^{su}
X
marca.

201 DEFENDANT'S EXHIBIT A 2, FROM FILES OF SURVEYOR
GENERAL.

On this 4th day of October, 1877, before me, Luciano Chavez, a juez de paz in and for the county of Socorro, Territory of New Mexico, personally appeared FRANCO. CHAVES MARQUEZ, of lawful age, and who, having been by me first duly sworn, deposeth and saith in answer to the following interrogatories:

Question. State your name, age, and place of residence.

Answer. My name is Franco. Chaves y Marquez; my age is seventy years, and I reside at Polvodera, in Socorro county, Territory of New Mexico.

Ques. Are you acquainted with the San Lorenzo or Alamillo grant; and, if so, how long have you known it?

Ans. I have known — about forty years.

Ques. Do you know the location of the mesita of Alamillo and

the table-lands which forms the north boundary call of said grant? If so, where is it located?

Ans. I know the location of the mesita of Alamillo and the table-lands. It is situated on the west bank of the Rio Grande. The table-land runs about northwest to Ladron mountain and many miles northwest from Lodran mountain.

Ques. Do you know the location of the north line of Pablo Garcia ranch, which forms the south boundary call of said grant? If so, where is it located?

Ans. I know its location. It is situated on the west bank of the Rio Grande, about half a mile south of the mouth of arroyo of San Lorenzo. The north line of said ranch runs about southwest from a cottonwood tree near the asquia towards Magdalena mountain, which I have this day helped to establish.

Ques. Where is the — which forms the east boundary call of said grant located?

202 Ans. —.

Ques. Do you know the location of the Jara spring, which forms the west boundary call of said grant; and, if so, where is it situated?

Ans. No.

Ques. How do you know the location of these natural objects?

Ans. From a personal knowledge and general reputation since I can remember.

Ques. Have you any interest in said grant? If so, what interest have you?

Ans. I have no interest in the San Lorenzo grant.

FRANCO. CHAVES Y MARQUEZ. ^{su}
x
marca.

Subscribed in my presence and sworn to before me this 4th day of October, 1877.

203 DEFENDANT'S EXHIBIT, FROM FILES OF SURVEYOR GENERAL.

SURVEYOR GENERAL'S OFFICE,
SANTA FE, NEW MEXICO, November 5th, 1886.

Private Land Claim of Antonio Chavez for the Arroyo de San Lorenzo Tract.

File 158. Reported 79.

This claim was filed August 15, 1873, and was approved by Surveyor General Proudfit on January 5, 1874. The case is now before me for re-examination. The alleged grant to the said Antonio Chavez by the governor and departmental assembly of New Mexico in the year 1825 and the juridical delivery of possession of the land claimed in April of that year by the proper alcalde are shown by the records of the departmental assembly of this Territory for the

year named, which are now on file among the archives of this office. The certified copies of the grant and proceedings thereunder as taken from the record of the said assembly are duly authenticated, and the testimony of one witness, the alcalde, who delivered the possession, is produced that the grantee took possession of the tract claimed and held until his death, after which his heirs sold it to Ramon Luna, Rafael Luna, and Anastacio Garcia, who thereafter continued to occupy it. This witness, however, makes the date of his juridical delivery three years before the date of the grant.

The petition filed in this office is signed by the said Ramon Luna and Anastacio Garcia for themselves and the heirs of Rafael Luna and all others interested in the grant.

There is no evidence that the grantee complied with the conditions of the royal laws under which all such grants were made. Moreover, the grant was made under the Mexican colonization law of 1824, according to which it could not exceed one square league of land, or a fraction over 4,340 acres, but it is surveyed under
204 the direction of this office for 130,000 acres and its confirmation recommended to this extent.

The facts connected with the survey excite suspicion and distrust as to the entire transaction. The deputy surveyor who undertook the work found it impracticable, owing to the uncertain location of the south boundary and conflicting statements of interested parties respecting the same. They therefore asked the surveyor general for more definite instructions, which appear to have been given in a paper dated May 24, 1878, which was not, however, signed by the surveyor general.

The deputies, nevertheless, proceeded to complete the survey of the tract, guided by the voluntary evidence of five witnesses, four of whom make their statements in answer to printed questions, which are leading, and in one of which cases the name of the witness is not signed to the paper purporting to give his statements. None of these witnesses was cross-examined, and the Government was wholly unrepresented, while the deputy surveyors were thus tempted to make the claim as large as possible with a view to their compensation. I recommend the rejection of this claim by Congress.

The right of the present claimants and those they represent to the land claimed or any portion of it by occupancy and prescription is another question which I am not called on to consider. Copies of this opinion in triplicate are forwarded as required.

GEORGE W. JULIAN,
Surveyor General.

205 (Defendant's Exhibit Map marked p. 205.)

206 And be it farther remembered that on the 25th day of November, A. D. 1893, the same being the 12th day of the November term, the following proceedings were had, to wit:

Argument in the above-entitled cause, continued from yesterday,

was resumed, and before argument of the United States was concluded the court took a recess until two o'clock p. m.

The court resumed its session at two o'clock p. m.; argument concluded and case submitted.

207 And be it further remembered that the said court rendered and afterwards filed in the said office its opinion in the said cause; which opinion is in the words and figures following, to wit:

208 Court of Private Land Claims.

MARTIN B. HAYS }
vs. } No. 37.
THE UNITED STATES. }

John H. Knaebel and James W. Vroom, for plaintiff; Matt. G. Reynolds, U. S. att'y, for defendant.

Mr. Justice MURRAY delivered the opinion of the court.

The petition in this cause is filed under the provisions of sec. 8 of the act of Congress approved March 3d, 1891, which provides that owners of perfect grants of land from Spain or Mexico, within the territory acquired by the United States by the treaty of Guadalupe Hidalgo in 1848, or what is known as the Gadsden purchase in 1853, that is located in the States or Territories named in said act, shall have the right to file their petition in this court to have such perfect title confirmed, but shall not be bound to do so. It is, however, insisted by counsel for the plaintiff, that should the court hold that the grant is not complete and perfect, that it should be confirmed to the extent of eleven leagues under the provisions of sec.

6 of said act, which provides in proper cases, for the confirmation of Spanish or Mexican "grants, warrants, concessions, or surveys which the United States are bound to recognize and confirm by virtue of the treaties of cession of said country, by Mexico to the United States, which at the date of the passage of this act have not been confirmed by act of Congress or otherwise finally decided on by lawful authority and which are not already complete and perfect." * * *. The expediente of title show that on the 3d day of March, 1825, one Antonio Chaves, a Mexican citizen, presented his petition to the provincial deputation, of the province of New Mexico, asking for a grant to a large tract of land for the purpose of pasturage, etc. The boundaries called for in the petition include something over 20,000 acres of land which had been previously granted by the Spanish government to the towns of Sevilleta and Succoro. The petition was referred by the provincial deputation to the (jefe politica) political chief, to ascertain and report, whether or not, the land included in the calls set out in the petition which had been previously granted to said towns should be granted to the petitioner. The political chief in an elaborate report recommended (for various reasons assigned) that all the land asked for in the petition be granted to Chaves. The report was

adopted, and one Juan Francisco Baca an alcalde directed to put the petitioner in juridical possession of the land prayed for. The secretary of the deputation was directed to give said Chaves a certificate of title. He was duly put in possession on the 20th day of April, 1825, and he and those claiming under him have been in possession of ever since. The petitioner claims under mean conveyances from the original grantee. The tract of land granted contains about 131,000 acres. The various papers constituting the expediente of title are regular in form, and were properly recorded in the archives of said provincial deputation. The entire proceedings seem to be free from fraud in fact, and if the provincial deputation with the concurrence of the political chief had power to make the grant, it should be confirmed in part, if not in full, and to test that question the court must look to the laws in force in the province of New Mexico at the date of the grant. It will be observed that the grant was made about six months subsequent to the enactment by the congress of Mexico, of the colonization law of the 18th of August, 1824, and more than three years prior to the promulgation of the regulations of November 21st, 1828. The royal order of the cortes of the 4th of January, 1813, made it the duty of the provincials deputations to "devise the most convenient means of making grants, and through the secretaries of state to report the same to the cortes for their recognition and adoption."

210 Prior to this order the provincial deputations had no authority to dispose of lands belonging to the Crown, and it is doubtful whether this order conferred any such power, but it is not necessary to decide that question, as the Supreme Court of the United States has held that said royal order was repealed on the restoration of the monarchy in 1814. See *United States vs. Clark*, 8 Peters, 454, 455.

On the 23d day of December, 1818, by resolution of the council of the Indies, before a full board at Madrid, (and approved by the King,) it was decreed that all business pertaining to the alienation of the lands in New Spain should belong to the department of the office of the treasury of the Indies at Madrid. Hall Mexican Law page 76, sec. 178.

The royal cedula of October 15th, 1754, authorized the governors in distant provinces of Spain to approve grants to lands belonging to the Crown, but no such power was conferred on the provincial deputations. But all power or authority conferred on the audiences or governors of New Spain by said royal cedula, which were in conflict with the resolutions of 1818 was repealed by it. It is a general rule, recognized by the civil law, that a posterior, repeals a prior law on the same subject, whether the prior law is referred to or not. Schmidt Civil Law of Spain and Mexico, p. 100.

But we deem it unnecessary to pursue this question further, as this grant cannot be sustained by any law of Spain. In the case of *The United States vs. Vallejo*, 1st Black., 541, the Supreme Court of the United States held: "That the decree of the Spanish cortes of 1813, as well as all other laws of Spain in relation to the disposition of the Crown lands were inapplicable to the state of things, which

existed in Mexico after the revolution of 1820, and could not have continued in force there, unless expressly recognized by the Mexican congress. That the Spanish system of disposing of the public lands was so different from that provided for by the Mexican law of 1824 and regulation of 1828, that they were repugnant and inconsistent, and that the former was repealed by the latter."

The regulations of 1828 was authorized by the following article of the law of 1824, art. 16: "The government in conformity to the principles established in this law will proceed in the colonization of the territories of the Republic." The territories of the Republic were created by the law of July 2d, 1824. The States of the Republic, as well as the government was limited in the amount of land to be given to any one person by art. 12 of said law of 1824 which is as follows: Art. 12. "One single person can only receive a square of land of 5,000 varas, (de regadio,) 4 of superficies for temporal use, and 6 for pasturage," making eleven square leagues, or about 48,000 acres.

211 We think it clear that after the enactment of the colonization law August 18th, 1824, and prior to the promulgation of the regulations of November 21st, 1828, the chief executive of the Republic of Mexico could have made valid grants to the public lands in the territories, or could have conferred the power to do so on any one else, provided such grant or grants had been made in conformity with the provisions of the law of August 18th, 1824. But *non constat* from the evidence in this case, that any such power had been conferred on the provisional deputation or governor when this grant was made.

It is, however, insisted by counsel for the plaintiff, that it is the duty of the court to presume that such authority had been conferred, or that the grant had been subsequently ratified by the government, and many adjudicated cases are cited to sustain this contention, which we think are not applicable to the facts in this case. If the petition, grant, and other proceedings on the part of the provincial deputation and political chief, had shown an intention to carry out the general policy of the colonization law of 1824, the contention of counsel would be entitled to great weight. But on the contrary the records show that neither the petitioner or any one else connected with the entire transaction had any idea whatever of complying with any of the provisions of that law. The grant is for more than twice the quantity of land grantable under the law, and includes land which had been previously granted by the Spanish government. About the same time this grant was made, the evidence shows, that other large tracts of land were granted by the same authority to one single person. The Pablo Moretoyer grant was for more than 600,000 acres; the Preston Beck grant exceeded 700,000 acres, and many others greatly in excess of eleven leagues. These facts being shown, the court certainly would not be warranted in presuming that this grant was made in pursuance of authority conferred by the chief executive of the Republic of Mexico. The officer who put Chaves in possession, certifies that he is a constitutional *alcalde*, and he must have known of the enactment of the

law of August 18th, 1824, for the constitution was adopted by decree of October 14th, 1824, more than two months subsequent to the passage of the colonization law. The territories of the Republic as we have seen, were created prior to August, 1824. So this, and other large tracts of land, amounting to millions of acres of the public domain was attempted to be donated to individuals, not only, in total disregard of the general policy of the Republic, but in direct violation of the colonization law.

In the case of *The United States vs. Vigil*, 13 Wall. 450, 212 Mr. Justice Davis, speaking for the Supreme Court of the United States, said: "It has been repeatedly decided by this court, that the only law in force in the territories of Mexico for the disposition of the public lands, with the exception of those relating to missions and towns, are the acts of the Mexican congress of 1824, and the regulations of 1828. If the policy of the law were wise, so were the regulations established for the purpose of carrying out its provisions." The law defined the policy of the Government in relation to the colonization of the public lands in the States and Territories and limited the power of the Chief Executive as well as the States, in the quantity of land to be donated to one single individual. The law was as binding on the Chief Executive as to the quantity of land to be given to one single person in the territories—before the promulgation of the regulations of 1828, as it was afterwards. In *Vigil's* case the grant was made by the departmental assembly in 1846 without the concurrence of the governor. The regulations of 1828 conferred the power on the governor to grant land in the territories not to exceed eleven leagues to one individual, the grants to be approved by the departmental assembly. The court held in that case, that if the grant or cession had been the act of the governor it would still be invalid, because "it would violate the fundamental rule on which the right of donation was placed by the law. The essential element of colonization is wanting, the number of acres granted was enormously in excess of the maximum quantity grantable under the law. The decrees of the cortes of Spain are invoked as authority for this grant, but it is sufficient to say, that they were invoked for a similar purpose in *Vallejo's* case, and were decided inapplicable to the state of things existing in Mexico after the revolution of 1820."

It is insisted, that if the grant to Chaves did not convey any right to the soil, that it was good as a license during the occupation of the territory by the Mexican government, and that such occupation for 23 years, prior to the ratification of the treaty in 1848, constitute an equity in favor of the petitioner that should be recognized by the court, and that taken in connection with the fact, that the petitioner paid a valuable consideration for the land, and the further fact, that Congress has confirmed similar grants for large tracts of land made by the same authority about the same time, the court would be warranted in confirming this grant as an equitable one to the extent of eleven leagues. To sustain this contention we are referred to the case of *Pollard's Lessee vs. Piles*, 2d Howard, page 603. In that case the land granted to Pollard was situated in the State of

213 Louisiana, and in the territory lying north of the Iberville, and between the Perdido and Mississippi river. This territory was for many years a subject of controversy between the United States and Spain and was not finally settled until the year 1819, when the Floridas were ceded to the United States. The United States claimed that said territory passed by the treaty with France of the 30th of April, 1803. This claim was disputed by Spain, and she refused to deliver the territory, and claimed a right to exercise the powers of government over it.

During the Spanish occupation of said territory, Pollard's grant was made. The Supreme Court of the United States, in the case of Foster and Elam *vs.* Neilson, 2d Peters, 253, and again in Garcea *vs.* Lee, 12th Peters, 515, held that this disputed territory west of the Perdido river passed to the United States by the treaty with France in 1803, and it followed that the Spanish authorities had no power to grant land which belonged to the *the* United States.

Commenting on this condition of things, the court said: "Very many permits to settle on the public domain and cultivate were also granted about the same time, which were in form incipient concessions of the land, and intended by the governor to give title and to receive confirmation afterwards from the King's deputy, so as to perfect them into a complete title. Pollard's was also of this description. Although the United States disavowed that any right to the soil passed by such concession, still they were not disregarded as giving no equity to the claimant; on the contrary, the first act of Congress passed (April 25, 1812) after we got possession of the country, appointed a commission to report to Congress on them in common with all others originating before the treaty of 1803."

Without going further into the history of the grant to Pollard, suffice it to say, that on the 2d day of July, 1836, Congress, in the exercise of sovereign power, passed an act confirming his grant, and the Supreme Court of the United States held that Congress had the right and power to confirm it. The question of the validity of Pollard's grant was not in the case referred to. The question decided in relation to the grant is, that the legal title to the land granted was in the United States when his grant was confirmed, and that therefore the title passed to him by decree of confirmation and patent.

If this cause was pending before Congress the position assumed by counsel might be entitled to favorable consideration. Congress, in its sovereign capacity, has unlimited power over all questions growing out of treaties made by the United States with foreign nations except the power to destroy the right to private property, which is protected by the Constitution of the United States. But

214 this court has only such power and jurisdiction to try and determine the rights of parties claiming grants to land from Spain or Mexico, as was conferred upon it by the act of March 3, 1891. The parts of said act necessary to be examined in this case are the following:

Sec. 6. "That it shall and may be lawful for any person or corporation, or their legal representative, claiming lands within the

limits of the territory derived by the United States from the Republic of Mexico, and now embraced within the Territories of New Mexico, Arizona or Utah, or within the States of Nevada, Colorado or Wyoming by virtue of any such Spanish or Mexican grant, concession, warrant or survey as the United States are bound to recognize and confirm by virtue of the treaties of cession of said country by Mexico to the United States, which, at the date of the passage of this act, have not been confirmed by act of Congress, or otherwise finally decided upon by lawful authority, and which are not already complete and perfect in every such case to present a petition." * * *

SUBDIVISION 1 OF SEC. 13. "No claim shall be allowed that shall not appear to be upon a title lawfully and regularly derived from the government of Spain or Mexico, or from any of the States of the Republic of Mexico having lawful authority to make grants of land, and one that if not then complete and perfect at the date of the acquisition of the territory by the United States, the claimant would have had a lawful right to make perfect, had the territory not been acquired by the United States, and that the United States are bound, upon principles of public law, or the provisions of the treaty of cession, to respect and permit to become complete and perfect if the same was not at said date already complete and perfect."

SEC. 7. "That all proceedings subsequent to the filing of said petition shall be conducted as near as may be according to the practice of the courts of equity or the United States." * * * "The said court shall have full power and authority to hear and determine all questions arising in cases before it relative to the title to the land, the subject of such case, the extent, location and boundaries thereof, and other matters connected therewith fit and proper to be heard and determined, and by a final decree to settle and determine the question of the validity of the title, and the boundaries of the grant or claim presented for adjudication, according to the law of nations, the stipulations of the treaty concluded between the United States and the Republic of Mexico at the city of Guadalupe Hidalgo on the 2d day of February, 1848, and the treaty concluded between the same powers at the city of Mexico on the 30th of December, 1853, and the laws and ordinances of the government from which it is alleged to have been derived, and all questions properly arising between the claimants or other parties in the case, and the United States." * * *

215 The claim which the court is authorized to consider must be based on such "a grant, warrant, concession or survey as the United States are bound to recognize and confirm by virtue of treaties or cession by Mexico to the United States, which, at the date of the passage of this act, have not been confirmed or finally decided by lawful authority, and which are not already complete and perfect." * * * It must "appear to be upon a title lawfully and regularly derived from the government of Spain or Mexico or from any State of the Republic of Mexico having lawful authority to make grants of land," and one that if not "complete and perfect at the date of the acquisition of the territory by the United States, the

claimant would have had a lawful right to make perfect had the territory not been acquired by the United States."

In the decision of questions affecting the rights of claimants or the United States, the court must look to the law of nations, the stipulations of the treaties, mentioned in said act, and the laws and ordinances of the government, making the alleged grants. It must be a claim lawful in its inception. The grant, warrant, concession or survey must have been made by one lawfully authorized to make it, and for some sufficient reason the same was not complete and perfect at the date the United States acquired the territory from Mexico, and it must have been made in conformity to the existing laws or ordinances of Spain or Mexico, as the case may be, so that the claimant could have gone into the courts of Mexico and demanded as a matter of right that his title be made complete and perfect, had the territory not been acquired by the United States.

In deciding the questions presented in this case, the court can only look to such rights (if any) as existed at the date of the ratification of the treaty in 1848. We cannot consider any supposed equity growing out of the fact that Congress has confirmed similar grants to other claimants for large tracts of land made by the same authority, or that the claimant has paid out large sums of money for the grant in question upon the faith of such action by Congress. These are proper questions for the consideration of the law-making power of the Government, but not for this court. It is true that section 7 of the act makes it the duty of the court in the preparation of cases for trial to "conform as near as may be to the practice of the courts of equity of the United States."

We understand by this provision of the statute that it was the intention of Congress to give the court large discretion in all matters pertaining to the preparation of causes for trial, so that all parties claiming grants to land from Spain or Mexico might have the merits of their claims passed upon by the court without being
216 in any way hampered by cast-iron rules of practice. But in passing upon the rights of such claimants on final hearing, we must be governed by the law prescribed by the act creating the court. This court has no equity jurisdiction, except in a proper case to convert an incomplete or imperfect title into a perfect or legal one by degree of confirmation. Tested by these rules it is quite clear that the grant in this case cannot be confirmed under the provisions of sec. 6 of said act. The expediente of title is regular in form, and purports to convey an estate in fee, but inasmuch as the provincial deputation, with the concurrence of the political chief, had no power or authority to make the grant it cannot be sustained under the provisions of sec. 8 of the act. A grant made by one without lawful authority to make it is void in all governments. See *Polk's Lessees vs. Wendal*, 9 Cranch, p. 99; same case, 5 Wheaton, p. 303; *United States vs. Workman*, 1 Wall., p. 745; *United States vs. Cary Jones*, *id.* 766; *United States vs. Vegil*, 13 Wall., p. 449. The grant being void, it follows that the petition must be dismissed, and it is so ordered.

Fuller and Stone, JJ., dissented.

217 And be it further remembered that after, to wit, on the 4th day of December, 1893, the same being the 17th day of the November term, the following proceedings were had, to wit :

Comes now the United States, by its attorney, Matt. G. Reynolds, Esq., and moves the court to correct the entry of record on the 13th day of December, 1892, made in said cause ; which said entry is a submission of said case to the said court. The above motion was sustained, and it is ordered by the court that the above-mentioned entry made herein be made to show that upon the introduction of proof of the plaintiff said cause was continued for further hearing on behalf of the United States.

218 And be it farther remembered that on the 4th day of December, A. D. 1893, the same being the 17th day of the November term, the following proceedings were had, to wit :

Come now the petitioners, by their attorney, John H. Knaebel, Esq., and the defendant, by Matt. G. Reynolds, Esq., United States attorney, and this cause being submitted at the former day of this court, and the court being fully advised of the premises, it is considered by the court that the petition of the petitioner in the above-entitled cause be, and the same is hereby, dismissed and the grant rejected.

219 And be it further remembered that thereafter, to wit, on the 4th day of December, A. D. 1893, the plaintiff presented to the court and filed in the said cause his petition for a rehearing in the words and figures following, to wit :

220 In the U. S. Court of Private Land Claims.

MARTIN B. HAYES }
vs.
 THE UNITED STATES. }

To the honorable the chief justice and associate justices of the United States court of private land claims :

Martin B. Hayes, plaintiff in the above-entitled cause, respectfully prays the said court to grant to him a re-argument and rehearing in the said cause upon the following grounds :

1. If, as assumed by the court in its opinion, the passage of the colonization law of 1824 effected an immediate repeal and abrogation of the former powers of the authorities of New Mexico or of any thereof regarding the alienation of the public domain, still, by the very terms of the colonization law itself, art. 15, it was provided : "The Government, in conformity with the principles established in this law, will proceed to the colonization of the territories of the Republic." Therefore it became at once the right and duty of the supreme executive to take such measures as in his discretion he might see fit to adopt to subject the territorial vacant lands to private ownership. In the execution of this very comprehensive executive authority he was limited by no technicalities or formalities

whatever, and he might select his own agencies, instrumentalities, and forms of procedure.

He might act in special cases only or he might ordain a general rule applicable to all cases whatsoever.

In one case he might act secretly, specially, and even with partiality; in another case he might pursue a contrary policy. He was given an extremely broad and arbitrary power, almost dictatorial in nature, and his only limitations were the fundamental
221 "principles" declared in the colonization law. His power in this respect was almost as broad as the constitutional power of our Congress over the public domain.

This great executive power was never qualified or formalized by any code of procedure until the same executive authority promulgated the regulations of 1828. In those regulations appears for the first time the plan of a definite procedure, in pursuance of which the territorial governor became the first official actor in a territorial grant proceeding and the territorial legislature became his ancillary advisor.

But in the interim between 1824 and 1828 the supreme executive still possessed in full vigor the almost arbitrary power of alienating the territorial public lands.

Manifestly it was most convenient for him to execute this power through local agencies. This is proved by his selection of local agencies in 1828. What disposition of the vacant lands of the territories he made in the interim he would appropriately make through the local authorities—*e. g.*, the territorial deputation or political chief, or both together. The territorial deputation having long exercised the power of alienating the public domain under the Mexican construction of the decree of the cortes of January 4th, 1813, it was very natural for the supreme executive to select that legislative body as his agent in effecting colonization prior to the more complicated system introduced by the regulations of 1828.

Upon the court's theory of the abrogatory effect of the colonization law the territorial deputation and political chief could act in the alienation of the public domain only by the direction or with the assent, original or confirmatory, of the supreme executive. But they did act openly, solemnly, after extreme deliberation, during a
222 period of four years, in course of which they made numerous grants. Since they could on the court's theory act lawfully in such cases only as agents of the supreme executive, what is it our duty to presume? Shall we presume usurpation and fraud or shall we presume the concurring will of the supreme executive?

For a quarter of a century these grants were extant as private estates, conferred and accepted as the donations of the nation, and not a word of disapproval or disavowal on the part of the supreme executive is heard or written.

Is nothing favorable to the grantees to be inferred from this long acquiescence? Is nothing favorable to be inferred from the fact that these grants were respected as valid possession even after the

regulations of 1828 and no governor even pretended to criticize them or disavow them or regrant the same lands?

If the fount of power in respect of such grants was the quasi-dictatorial executive of Mexico, and he, in the choice of his agencies or means of communication, was hedged in by no more restrictions than the deposed King had been when he reigned, why cannot we assume that the streamlets of authority, found in apparent descent from that source, originated there?

Good faith is presumable rather than fraud; legitimacy rather than illegitimacy.

No repugnant statute being in the way, we may reasonably and logically rely, in these circumstances, upon the presumption so frequently invoked to the Supreme Court to sustain the action of Spanish subordinate officials, and also equally invoked by that tribunal in *U. S. v. Peralta*, 19 How., 347, to sustain the action of a Mexican governor, that court saying in the cited case as it had substantially said several times before, "We have frequently decided

223 that the public acts of public officers, purporting to be exercised in an official capacity and by a public authority, are not presumed to be usurped, but that the legitimate authority had been previously given or subsequently ratified. To adopt a contrary rule would lead to infinite confusion and uncertainty of title."

2. The learned chief justice, being kept from the bench by severe illness, was unable to hear a word of the oral argument, and thus we were deprived of his wise consideration of the numerous points and illustrations adduced by counsel in the course of the long debate, but not preserved in written or printed form.

(Signed)

JNO. H. KNAEBEL,
Attorney for Petitioner.

224 And be it farther remembered that on the 4th day of December, A. D. 1893, the same being the 17th day of the November term, the following proceedings were had, to wit:

The application of plaintiff for rehearing in the above-entitled cause was refused by the court.

225 And be it farther remembered that on the *that on the* 4th day of December, A. D. 1893, the same being the 17th day of the December term, 1893, the following proceedings were had, to wit:

The plaintiff, Martin B. Hayes, prays the court to allow him an appeal to the Supreme Court of the United States from the decision and decree in the above-entitled cause, dismissing the plaintiff's petition therein.

The plaintiff, Martin B. Hayes, hereby gives notice that he intends to appeal and does hereby appeal to the Supreme Court of the United States the decision and decree in the above-entitled cause, dismissing the said plaintiff's petition therein.

The appeal prayed for by the above-named plaintiff, Martin B.

Hayes, in the above-entitled cause is hereby allowed at this November term, A. D. 1893, of the U. S. court of private land claims by the court.

226 And be it further remembered that because, after the taking of the appeal herein and plaintiff's due request for the transcript for transmission to the appellate court, the clerk was delayed by the failure to find in his office after diligent search the abstract of title and mesne conveyances introduced in evidence on the trial, a stipulation on the part of the United States as well as of the plaintiff was made and filed in said clerk's office in words and figures following, to wit:

227

Stipulation.

In the United States Court of Private Land Claims.

MARTIN B. HAYES	} No. 37.
<i>vs.</i>	
THE UNITED STATES OF AMERICA.	

The clerk being unable to find after diligent search the abstract and other exhibits showing deraignment of title in the petitioner to the private claim here in question, it is stipulated, in order to speed the appeal herein, that the United States admits that on the trial the petitioner proved sufficient proprietary interest in the subject-matter of this litigation to enable him to present and prosecute his petition herein.

(Signed)

MATT. G. REYNOLDS,
U. S. Attorney.

(Signed)

JNO. H. KNAEBEL,
Attorney for Martin B. Hayes.

228 And be it further remembered that thereafter, to wit, on the 8th day of October, A. D. 1894, there was duly filed in the said office a stipulation and request on the part of the United States as well as of the plaintiff in the words and figures following, to wit:

229 In the Court of Private Land Claims of the United States.

MARTIN B. HAYES	} No. 37.
<i>vs.</i>	
THE UNITED STATES.	

It is stipulated that upon the hearing of the appeal in this cause such executive and legislative documents regarding the land grant in controversy as have been printed and published by the Government may be cited and referred to without the inclusion thereof in the record to be filed herein, and the clerk of the Supreme Court of the United States is hereby requested to docket the said appeal

and file the record herein, so that the said appeal may stand for argument.

Dated Santa Fé, Oct. 8, 1894.

(Signed)

MATT. G. REYNOLDS,

U. S. Attorney for Appellee.

(Signed)

JNO. H. KNAEBEL,

Attorney for Appellant.

230 UNITED STATES OF AMERICA, }
Territory of New Mexico, } ss:

I, James H. Reeder, clerk of the United States court of private land claims, do hereby certify that the above and foregoing contains a full, true, and complete transcript of all the papers and record entries of the cause of Martin B. Hayes *versus* The United States as the same now appear on file and of record in my office.

In witness whereof I have hereunto set my hand and affixed the seal of said court, at the city of Santa Fé, on the 15th day of October, A. D. 1894.

[Seal Court of Private Land Claims, Santa Fé, New Mexico.]

JAMES H. REEDER, *Clerk,*

By IRENEO L. CHAVES,

Deputy Clerk.

Endorsed on cover: Case No. 15,720. Court of private land claims. Term No., 477. Martin B. Hayes, appellant, *vs.* The United States. Filed October 31, 1894.